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No. 96-1577

CLERK

Supreme Court, U.S.

FILED

AUG 21 1997

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IN THE
Supreme Court of the United States
OCTOBER TERM, 1997

STATE OF ALASKA,

Petitioner,

v.

NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT, *et al.*,
Respondents.

On Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED APRIL 4, 1997
CERTIORARI GRANTED JUNE 23, 1997

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

STATE OF ALASKA, *et al.*

v.

NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT *et al.*

No. 87-51

DOCKET ENTRIES

| DATE | NR. | PROCEEDINGS |
|--------|-----|--|
| 1987 | | |
| Oct 07 | 1 | Fld. Complaint and issued summons |
| Oct 08 | 2 | Fld. State of AK Mot for Temporary Restraining Order w/Prop Ord w/svc |
| Oct 13 | 5 | Fld. Def Mot to Dismiss w/memo in Opp to Pltf's Mot for TRO & in spt of Mot to Dismiss w/svc |
| Oct 13 | 8 | Fld. Min Order re Hearing on Pltf's Mot for Temp Rest Order—GRANTED cc: csl |
| Oct 13 | 9 | Fld. Temporary Restraining Order cc: csl |
| Oct 16 | 10 | Fld. Temporary Restraining Order cc: csl |
| Oct 22 | 11 | Fld. pltf STATE motion for preliminary injunction w/svc |
| Oct 26 | 16 | Fld. Def. Memo in Resp to Pltf's Mot for Preliminary Injunction & in Reply to Pltf's Opp to Def's Mot to Dismiss w/svc |
| Oct 30 | 24 | Fld. MO re O/A on Pltf's Mot for Preliminary Injunction & Def's Mot to Dismiss: Mot to Dismiss reserved by court pending further study. Mot for PI Granted except for Taxes imposed on members living in territorial limits & for airport landing fees |

| DATE | NR. | PROCEEDINGS |
|---------|-----|--|
| Nov 03 | 25 | Fld. Def. Native Village of Venetie, Notice of Appeal to Order entered 10/30/87 (dkt # 24) cy: Mertz (St of AK) Anderson, Judge Kleinfeld. 9CCA. 1988 |
| Oct 05 | 31 | Fld cert cy 9CCA JUDGMENT affirm DC. cy: Mertz, Anderson, Judge Kleinfeld. (87-4333) 1989 |
| May 12 | 52 | Fld Defs' Answer 1990 |
| July 9 | 68 | FILED Motion to Dismiss, with memorandum in suppo |
| July 24 | 70 | filed Opposition to Motion to Dismiss by Pltf |
| Dec 10 | 94 | FILED Motion for leave to file amended complaint by Pltf. |
| Dec 10 | — | Lodged Amended Complaint 1991 |
| Feb 7 | 98 | FILED Answer to State's Amended Complaint by Deft 1992 |
| June 2 | 123 | FILED COPY OF ORDER IN F86-075CTV Consolidating Tribal Status issues for trial. cc:csl |
| Aug 3 | 128 | FILED Joint statement of issues. 1993 |
| June 21 | 148 | FILED cert copy of pretrial order in F86-075. cc:csl |

| Document # | Filed | Docket Text |
|------------|------------|--|
| 154 | 1 08/02/95 | HRH Order, Decision re: Indian Country. This court finds that the lands of the Neets'aii Gwich'in have not been set aside for Alaska Natives, as such, under the superintendence of the federal government. The court concludes that the Neets'aii Gwich'in, although a tribe, are not a dependent Indian community for purposes of 18:1151(b). Based upon the court's findings, this court concludes that the lands of the Neets'aii Gwich'in are not Indian Country; and, therefore, the Tribal Government does not have the power to impose a tax upon non-members of the tribe such as the plaintiffs. cc: cnsl in this case as well as counsel in A90-484-Civil (Kluti-Kaah). |
| 163 | 1 11/28/95 | HRH Final Judgment that Neets'aii Gwich'in are a sovereign Indian tribe as a matter of federal common law; that the lands of the said tribe are not Indian Country. The def's do not have the power to impose a tax upon non-members of the tribe; that any remaining claims in pltf's complaint are dismissed as moot. Cy cnsl, O&J 9696. |
| 164 | 1 12/27/95 | FLD DEF 1-11 Appeal to 9CCA at dkt # 163. cc: cnsl, Judge Holland, 9CCA. |

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT *et al.*

v.

STATE OF ALASKA, *et al.*

No. 86-75

DOCKET ENTRIES

| DATE | NR. | PROCEEDINGS |
|--------|-----|--|
| 1992 | | |
| June 2 | 65 | FILED Order consolidating tribal status issues with case F87-51CIV. cc:csl |
| 1993 | | |
| Oct 1 | 95 | FILED Joint Statement of issues |
| 1994 | | |
| Jan 21 | 126 | FILED Pltf's Post-Trial Brief |
| Mar 14 | 133 | FILED Native Village post trial reply brief. |

DOCKET ENTRIES

| Document # | Filed | Docket Text |
|------------|------------|---|
| 142 | 1 12/23/94 | HRH Order re: decision-Tribal Status, The court concludes that neither the Artic Village Council, the Native Village of Venetie I.R.A. Council, nor the Native Village of Venetie Tribal Govt have been acknowledged as tribes by the U.S. Govt. The court concludes that the Neets'aii Gwich'in are a sovereign tribe as a matter of commonlaw. The court concludes that the adoption decrees of the native courts of the Neets'aii Gwich'in tribe are entitled to full faith and credit from the State of Alaska. cc:csl. |
| 151 | 1 02/22/95 | HRH Order severing cases consolidated for trial. F86-075CI and F87-51CI are severed, and a copy of decision of 12-24-94 is ordered filed in both case files. cc:csl |
| 152 | 1 02/22/95 | HRH Order court will issue judgment re Venetie vs State, but not "Final". Court declines to make 54(b) determination at this time. Ft. Yukon Pltfs motion for s.j. due 5-1, Oppo due 6-1, reply 6-16, 1995. cc:csl/O&J file |
| 153 | 1 02/22/95 | HRH Judgment: Neets'aii Gwich'in are a sovereign Indian tribe, and State of Alaska shall give full credit to adoption decrees issued by the tribal courts, including the decree in favor of Nancy Joseph. cc:csl/O&J file |

| Document # | Filed | Docket Text |
|------------|------------|--|
| 182 | 1 01/30/96 | HRH Final Judgment: Native Village of Ft Yukon is sovereign tribe, and State of Alaska shall recognize adoption decrees of the Neets'aii Gwich'in and Native Village of Ft. Yukon, including decrees issued in favor of Nancy Joseph and Margaret Solomon. cc:csl/O&J file |

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

STATE OF ALASKA *et al.*

v.

NATIVE VILLAGE OF VENETIE TRIBAL GOVERNMENT *et al.*

No. 96-35042

DOCKET ENTRIES

| DATE | PROCEEDINGS |
|----------|--|
| 11/20/96 | FILED OPINION: The judgement of the district court is REVERSED and this case is REMANDED to the dc to determine whether Venetie has the power to impose a tax upon a private party where the State of Alaska will ultimately pay the obligation. (Terminated on the Merits after Oral Hearing; Reversed; Written, Signed, Published. James R. BROWNING; Dorothy W. NELSON, author; Ferdinand F. FERNANDEZ.) FILED AND ENTERED JUDGMENT. [96-35042] (ft) [96-35042] |
| 1/6/97 | Filed order (James R. BROWNING, Dorothy W. NELSON, Ferdinand F. FERNANDEZ) : denying petition for enbanc rehearing [3131325-1] [96-35042] (dg) [96-35042] |
| 1/23/97 | Filed order (James R. BROWNING, Dorothy W. NELSON, Ferdinand F. FERNANDEZ) : The State of Alaska's unopposed motion to stay issuance of the mandate until final disposition by the U.S. Supreme Court is granted. [3157841-1] [96-35042] (dg) [96-35042] |

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

No. A87-51 Civil

THE STATE OF ALASKA, *ex rel.*, ET AL.,
Plaintiffs.

vs.

NATIVE VILLAGE OF VENETIE, ET AL.,
Defendants.

Fairbanks, Alaska

October 30, 1987

**HEARING ON ORAL ARGUMENT ON PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION AND
DEFENDANTS' MOTION TO DISMISS**

Before the Honorable ANDREW J. KLEINFELD.

* * * *

[28] States versus White Mountain Apache Tribe, 784, Fed 2nd, 917. Ninth Circuit, 1986. Okay.

The second case is—excuse me, the United States versus the Yakima Tribal Court. This is 806 F 2nd, 853. This case is—went to the United States Supreme Court and certiorari was denied.

The case is particularly telling, I think, on the arguments requiring that we exhaust our tribal remedies first

because of the way in which sovereign immunity was addressed in this context.

It came—The Court came to the conclusion that sovereign immunity precluded the requirement to exhaust because that—an entity of sovereign immunity doesn't have to do it. And they reached the conclusion relying upon Penn Herr State School and Hospital versus Halderman (phonetic) which as the Court I am sure is aware is a case involving a sovereign immunity of the State of Pennsylvania.

So the holding of the case is very, I think—can generally be applied to the context that if the entity which is being asked to exhaust its remedies enjoys sovereign immunity, it is not required to do so in a tribal forum.

THE COURT: I'm having some trouble with the applicability of sovereign immunity here. The reason is—

MR. CUMMINGS: The State—excuse me, Your Honor.

[29] THE COURT: The reason is, and I want you to clarify this for me, as I understand this case, the Village of Venetie proposed a tax of private contractor. The only way the State gets into this is that the State, by contract with that contractor, promised that if it got stuck for taxes, the State would pick up the tab.

MR. CUMMINGS: Yes, that is correct.

THE COURT: That isn't the same as if the tribal government had attempted to tax the State in the first instance. That's the State volunteering to pick up the tab for some private person's taxes. So it's hard to see how it could use its immunity in that circumstance.

MR. CUMMINGS: Well, I certainly can, if I can disagree with your interpretation of the facts to the extent—

THE COURT: I'd like to hear the argument.

MR. CUMMINGS: Yes. The reason we believe that the sovereign immunity applies in this instance is because the incident of the tax falls fairly upon the State. In other words, those taxes that are imposed by anybody or an

incident of the construction, in other words, as if it were a sheet of plywood or if it were nails or an insurance policy that the contractor is required to carry, it's something that's factored into his bid. It increases the cost doing, you know, business.

[30] Okay. The argument is that we have a right to control the cost of doing business. And in those instances where the tax isn't applicable, they shouldn't—it shouldn't have to be paid nor should we gratuitously go along with paying taxes that are unnecessary and improper.

THE COURT: Whether it's a cost of the State in putting schools out there depends entirely on whether the State chooses to contract that way, doesn't it?

MR. CUMMINGS: No, not at all. If the tax is legally valid, then the argument would be then yes, it's one of the costs of doing business. But if it isn't legally required or appropriate, then the State shouldn't be paying it. And we're talking about a substantial amount of money here, five percent of the contract price, some \$160,000.

THE COURT: The Village of Venetie has never sent a tax bill to the State of Alaska, has it?

MR. CUMMINGS: Not to my knowledge, Your Honor.

THE COURT: Okay. I understand the argument. As I understand the argument, because the State ultimately bears the financial burden, it should be able to use its sovereign immunity as a sword as well as a shield here.

MR. CUMMINGS: Yes.

THE COURT: Is that about it?

MR. CUMMINGS: Yes, sir.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

(Title Omitted)

No. F87-51 CIV.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

COMPLAINT

1. This suit challenges the authority of the defendants to impose what purports to be an Indian tribal tax on a contractor building school facilities for the Yukon Flats School District and the State of Alaska. Plaintiff is the State of Alaska, within whose boundaries the defendants reside or are located. The complaint is brought by the State both on its own behalf and on behalf of the contractor on the school project, Unalakleet/Neeser Construction JV, and the principals in that joint venture, Gerald Neeser, dba Neeser Construction Company, and the Unalakleet Native Corporation. Defendants are an entity purporting to be a tribal government, its council and its members, who claim to have authority to impose the tax; the members of the Venetie Tax Commission, who claim to have authority to collect the tax; the Venetie Village Administrator, who claims to have authority to administer the tax; and the officers and personnel of the Venetie Tax Court, who claim to have authority to enforce

the tax through judicial proceedings. This complaint maintains that the tax violates federal Indian common law, the Alaska Native Claims Settlement Act (43 U.S.C. § 1601 et seq.), the Constitution of the United States (Art.I, Sec.8, cl.3), and the Constitution of the State of Alaska (Article X, Section 2). Jurisdiction of this court is based on 28 U.S.C. §§ 1331, 2201, 2202, and the doctrine of pendent jurisdiction.

The Parties

2. The Plaintiff is the State of Alaska, a sovereign state of the United States.

3. Defendant Native Village of Venetie Tribal Government is an entity purporting to be a tribal government for the area of the former Venetie Reserve, which includes the communities of Venetie and Arctic Village.

4. Defendant Native Village of Venetie Tribal Government has at times used the title Native Village of Venetie to refer to itself or to the area which it purports to govern.

5. On information and belief, Defendant Gideon James was the First Chief of the Native Village of Venetie Tribal Government when the acts complained of here occurred, is now the First Chief, and he also now acts as the clerk of the tax court of the Native Village of Venetie Tribal Government. He is also the "Tribal Administrator" of the Native Village of Venetie Tribal Government. He is a resident of the State of Alaska. He is being sued in both his individual and official capacities.

6. Defendant Ernest Erick is the current Second Chief of the Native Village of Venetie Tribal Government. He is a resident of the State of Alaska. He is being sued in both his individual and official capacities.

7. Defendants Gideon James, Lawrence Roberts, and Larry Williams are the members of the tax commission of the Native Village of Venetie Tribal Government. On

information and belief they are residents of the State of Alaska. They are being sued in their official and personal capacities.

8. Defendants Lincoln Tritt, John Titus, and David Case are the members of the "tax court" of the Native Village of Venetie Tribal Government. On information and belief they are residents of the State of Alaska. They are being sued in their official and personal capacities.

Jurisdiction and Venue

9. This action arises under the Constitution and laws of the United States, as more fully set out herein. Jurisdiction of this court is based upon 28 U.S.C. §§ 1331, 2201, and 2202. Venue is based on 28 U.S.C. § 1391(b).

Statement of Facts

10. On information and belief, on or about May 5, 1986, the Native Village of Venetie Tribal Government passed an ordinance purporting to impose a gross receipts tax on business activity in the vicinity of the village of Venetie.

11. The Native Village of Venetie Tribal Government adopted the tax ordinance under color of authority of tribal powers purportedly enjoyed by itself and the Native Village of Venetie.

12. The Native Village of Venetie Tribal Government and the communities and persons for whom it purports to be a tribal government do not occupy an Indian reservation.

13. The United States does not recognize the Native Village of Venetie Tribal Government or the communities or persons for whom it purports to be a tribal government as an Indian tribe capable of asserting sovereign powers over nonmembers.

14. Under a contract between Unalakleet/Neeser Construction JV and the Yukon Flats School District, Unalakleet/Neeser Construction JV engaged in remodeling and rebuilding of school facilities owned by the State of Alaska in Venetie. Under that contract, any taxes levied in connection with the project by entities other than the state, the United States, and municipalities incorporated under state law, are the responsibility of the State of Alaska, not Unalakleet/Neeser Construction JV.

15. The tax commission of the Native Village of Venetie Tribal Government has informed Unalakleet/Neeser Construction JV and Gerald Neeser that they are liable for taxes and penalties in connection with Unalakleet/Neeser's construction activities in connection with the new school facilities in Venetie. The amount claimed to be owing exceeds \$161,203.15, plus interest and penalties.

16. On information and belief, the only business activity that has been subjected to the tax is the construction of new school facilities in the community of Venetie.

17. In or about February, 1987, the Native Village of Venetie Tribal Government seized equipment and property of Unalakleet/Neeser Construction JV and stated that the reason was to gain security for unpaid taxes. The property was later released but the defendants still maintain that the tax is owed and on information and belief are still prepared to seize property belonging to Unalakleet/Neeser Construction JV, the Yukon Flats School District, or the State of Alaska.

18. The Native Village of Venetie Tribal Government has begun an attempt to collect the purported tax through its Tax Court. The relief requested is a final judgment against Neeser Construction Company, Gerald Neeser, and the State of Alaska, for the amount of the tax purportedly due, with interest and penalties. On information and belief, the defendants will attempt to satisfy a judg-

ment of the Tribal Government's tax court by seizing property of Unalakleet/Neeser Construction JV, the Yukon Flats School District, or the State of Alaska unless they are enjoined from doing so.

19. On information and belief, the Native Village of Venetie Tribal Government's tax court was created solely for the purpose of enforcing the purported tax against Unalakleet/Neeser Construction JV and the State of Alaska and has conducted no other business.

20. Any tax owed on account of construction of new school facilities in Venetie will, if valid, reduce operating and maintenance funds available for that school from the Yukon Flats School District.

21. Plaintiff maintains that defendants have no jurisdiction or authority to impose a tax or tax-filing obligation against itself or against any other person or entity and that any enforcement action would be illegal and without jurisdiction or authority under either federal or state law.

First Cause of Action Absence of Tribal Sovereignty

22. The Native Village of Venetie Tribal Government is not an Indian tribe empowered to exercise tribal sovereignty under the laws of the United States. Therefore defendants have no jurisdiction or authority to impose the tax or its implementing regulations or to take any enforcement action under color of that tax.

23. Neither the Native Village of Venetie Tribal Government nor the communities and persons for whom it purports to be a tribal government exist on an Indian reservation and neither has the authority which federal law limits to Indian reservations.

**Second Cause of Action
Absence of Tribal Authority over Nonmembers**

24. The tax ordinance passed by the Native Village of Venetie Tribal Government is not limited in its effect to members of the defendant organizations or the persons they purport to represent. Neither Unalakleet/Neeser Construction JV, Gerald Neeser, the Unalakleet Native Corporation, its shareholders, the Yukon Flats School District, nor the state of Alaska is a member of defendant organizations, nor do they operate within any Indian country, as that term is defined in federal law, over which the defendants legally exercise jurisdiction. Accordingly, none of the defendants is empowered to exercise tribal sovereignty over the activities of Unalakleet/Neeser JV, the State of Alaska, or any other persons not members of defendant organizations. Defendants have no jurisdiction or authority to impose their tax and/or its implementing regulations against any non-members or to take any enforcement action under color of that tax.

**Third Cause of Action
Settlement Act Extinguishment**

25. Any jurisdiction that the Native Village of Venetie Tribal Government might once have had to exercise tribal sovereignty over the activities of non-members or of the State of Alaska was extinguished by virtue of Section 4 of the Alaska Native Claims Settlement Act, 43 U.S.C. § 1603. Therefore defendants have no jurisdiction or authority to impose the tax or its implementing regulations or to take any enforcement action under color of that tax.

**Fourth Cause of Action
United States Constitution**

26. Defendants' tax, even if otherwise authorized, would violate the Indian Commerce Clause of the United States Constitution (Art. I, Sec. 8, cl. 3), the Due Process

Clause of the United States Constitution, and the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303) by denying equal protection of the laws and due process. The tax is not fairly related to services provided by the purported taxing authorities and is not applied or enforced equally among all persons similarly situated as to the community of Venetie. Therefore the tax is void and unenforceable.

**Fifth Cause of Action
Alaska Constitution**

27. Defendants' tax violates Article X, section 2, of the Alaska Constitution, which restricts local taxing authority to State chartered cities and boroughs. There is no city or borough at Venetie. Therefore, if defendants' tax is not authorized by any federal law which preempts state law, it is void under the Constitution of the State of Alaska.

Prayer for Relief

Therefore, plaintiff asks for relief against defendants as follows:

a) that defendants and each of their officers, agents, employees, and successors, and all other persons in active concert or participation with any of them, be enjoined and restrained, both during the pendency of this litigation and permanently, from:

i) taking any action, directly or indirectly, or threatening to take any action, directly or indirectly, to enforce the defendants' tax or its regulations against any person or entity; and

ii) taking any action, directly or indirectly, or threatening to take any action, directly or indirectly, to enforce any similar tax or regulations whereby defendants purport to exercise any form of sovereign jurisdiction over any persons or entities;

b) that the court declare that defendants' tax and its regulations are invalid and void under federal and state

law and are not within the jurisdiction of any entity acting as an Indian tribe and that defendants have no jurisdiction or authority to take any action to enforce their tax or its regulations against any person or entity;

c) that the court declare that the defendant Tax Court is without authority under federal and state law and that it has no jurisdiction or authority to take any action against any person or entity;

d) that the court award plaintiff its costs and attorney fees; and

e) that the court award such other relief as may be appropriate.

DATED: December 7, 1990

CHARLES E. COLE
Attorney General

/s/ Douglas K. Mertz
DOUGLAS K. MERTZ
 Assistant Attorney General
 Jack B. McGee
 Assistant Attorney General
 William F. Cummings
 Assistant Attorney General
 Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ALASKA**

No. F 87-51 Civ.

(Title Omitted)

ANSWER TO STATE'S AMENDED COMPLAINT

Defendants respond to the State of Alaska's Complaint in the above-captioned matter as follows:

1) As to paragraph one, admit sentences one, two, three, four and six. Deny that any of the laws cited in sentence five preclude the tribal government from taxing.

The Parties

2) As to paragraph two, admit.

3) As to paragraph three, admit.

4) As to paragraph four, admit.

5) As to paragraph five, admit sentences one and two with the qualification that Gideon James' positions were and are with the Native Village of Venetie Tribal Government. Admit sentences three and four.

6) As to paragraph six, admit with the same qualifications set forth in paragraph five.

7) As to paragraph seven, admit with the same qualifications set forth in paragraph five.

8) As to paragraph eight, admit with the same qualifications set forth in paragraph five.

Jurisdiction and Venue

9) As to paragraph nine, admit.

Statement of Facts

- 10) As to paragraph ten, deny. The tribal government first imposed its tax in 1978 and amended it on May 5, 1986.
- 11) As to paragraph eleven, deny. The Native Village of Venetie Tribal Government and the Native Village of Venetie are the same entity.
- 12) As to paragraph twelve, deny. The tribal government is a reservation as defined by 25 U.S.C. § 1903(10).
- 13) As to paragraph thirteen, deny.
- 14) As to paragraph fourteen, defendants lack sufficient information to admit or deny and therefore deny. Defendants specifically deny that Unalakleet/Neeser Construction are not jointly and severally liable for the taxes—along with the State of Alaska.
- 15) As to paragraph fifteen, admit with the qualification that the tax commission operates under the tribal government's delegation of authority.
- 16) As to paragraph sixteen, deny.
- 17) As to paragraph seventeen, deny that property was physically seized, rather it was subject to a lien. Deny that property will be seized to satisfy the tax.
- 18) As to paragraph eighteen, admit sentences one and two. Deny sentence three.
- 19) As to paragraph nineteen, deny.
- 20) As to paragraph twenty, deny on the basis that defendants lack sufficient information to admit or deny.
- 21) As to paragraph twenty-one, deny.

First Cause of Action
Absence of Tribal Sovereignty

- 22) As to paragraph twenty-two, deny.
- 23) As to paragraph twenty-three, deny.

Second Cause of Action
Absence of Tribal Authority over Nonmembers

- 24) As to paragraph twenty-four, admit sentence one. Admit that plaintiffs are not members of defendants' organization. Deny the remainder of paragraph 24.

Third Cause of Action
Settlement Act Extinguishment

- 25) As to paragraph twenty-five, deny.

Fourth Cause of Action
United States Constitution

- 26) As to paragraph twenty-six, deny.

Fifth Cause of Action
Alaska Constitution

- 27) As to paragraph twenty-seven, deny sentences one and three.

Affirmative Defenses

1. This court lacks subject matter jurisdiction based on the doctrine of tribal sovereign immunity which bars this action against all defendants.
2. The doctrine of exhaustion of tribal remedies enunciated in *National Farmers Union v. Crow Tribe* requires that this court abstain from exercising jurisdiction and that it dismiss the action for failure to exhaust tribal remedies.

Defendants therefore request that this court dismiss this action and award to them their costs and attorney fees of responding to this action.

DATED: February 4, 1991.

Respectfully submitted,

By: /s/ Bart K. Garber
 Robert T. Anderson
 Bart K. Garber
 of Attorneys for
 Native Village of Venetie

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

Case No. F-86-75 Civil

NATIVE VILLAGE OF VENETIE IRA COUNCIL,
NATIVE VILLAGE OF FORT YUKON IRA COUNCIL,
NANCY JOSEPH and MARGARET SOLOMON,
Plaintiffs,

vs.

STATE OF ALASKA and THEODORE A. MALA,
in his official capacity as Commissioner of the
Department of Health and Social Services,
Defendants.

ORDER TO CONSOLIDATE TRIAL OF TRIBAL
STATUS ISSUES RE VENETIE AND DEFERRING
TRIAL OF TRIBAL STATUS ISSUES
RE FORT YUKON

ORDER TO CONSOLIDATE TRIAL OF TRIBAL
STATUS ISSUES RE VENETIE AND DEFERRING
TRIAL OF TRIBAL STATUS
ISSUES RE FORT YUKON

Upon stipulation of the parties and for good cause
shown,

IT IS HEREBY ORDERED that trial on the tribal
status issues pertaining to the Native Village of Venetie
shall be consolidated with trial on the same issues in Case
No. F-87-51 Civil; and it is further

ORDERED that a trial-setting order on the tribal status
issues pertaining to the Native Village of Fort Yukon shall
be taken up at a later date, either after the tribal status
issues regarding the Native Village of Venetie are re-
solved, or earlier if deemed appropriate by the court upon
its own motion or upon motion of any or all parties hereto.

Date: 5/26/92

Illegible:
Judge of the District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

F86-075 Civil
(consolidated)

NATIVE VILLAGE OF VENETIE IRA COUNCIL, *et al.*,
Plaintiffs,
vs.

STATE OF ALASKA, *et al.*,
Defendants.

NOTICE OF FILING OF WITNESS LIST
AND NARRATIVE TESTIMONY

In accordance with this Court's Order for Pre-Trial Proceedings & Final Pre-Trial Conference, plaintiffs Native Village of Venetie, *et al.* hereby give notice of filing the attached witness list and narrative testimony for each listed witness.

DATED this 1st day of October, 1993.

Robert T. Anderson
ROBERT T. ANDERSON
Council for Native Village of Venetie
in Case No. F87-051 Civil

Judith K. Bush
JUDITH K. BUSH
Council for Native Village of Venetie
in Case No. F86-075 Civil

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

WITNESS LIST

Plaintiffs Native Village of Venetie, *et al.*, intend to call the following witnesses to testify at trial:

1. Joan Ryan
2. Jack Campisi
3. Moses Sam
4. Jessie Williams
5. Maggie Roberts
6. Robert Frank
7. Sarah James
8. Ernest Erick
9. Eddie Frank
10. Bob Childers
11. Clarence Alexander
12. Jeff Weltzin
13. Mike Stancampiano
14. Shirley Lee
15. Will Mayo
16. Pierre Demers
17. Gideon James
18. Rick Caulfield

DATED this 1st day of October, 1993.

Robert T. Anderson
ROBERT T. ANDERSON
Council for Native Village of Venetie
in Case No. F87-051 Civil

Judith K. Bush
JUDITH K. BUSH
Council for Native Village of Venetie
in Case No. F86-075 Civil

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF DR. JOAN RYAN

Dr. Joan Ryan is one of Venetie's expert witnesses. Her Report is attached hereto in lieu of narrative testimony.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF DR. JACK CAMPISI

Dr. Jack Campisi is one of Venetie's expert witnesses. His Report is attached hereto in lieu of narrative testimony.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF MOSES SAM

1. My name is Moses Sam and I was born at Venetie Lake on May 8th, 1912. I was only one year old when my father, Samuel Sam, died in 1913. My mother, Lucy Sam from Old Crow, was an Elder from the nomadic days. She raised me at Tsuk Koo (Martin Creek), a creek located between Venetie and Fort Yukon. There were a few other families there at that time; Enoch, Fredson, Old Robert, Old John, Ginnis and Sam families.

2. My mother mostly gathered fish from the creek and I would hunt small game such as rabbits, ground squirrels, and ducks. I began hunting when I was six. I can remember things she taught me even when I was very young and I always took her advice. She could do many things that usually only men did and at times, would even help out the people in Venetie. Our clothes were made from rabbit skins. We had rabbit mittens that would keep us warm; we never felt the cold. There was no school then except at Ft. Yukon so I never did go to school.

3. My father came from Arctic Village. A lot of his family moved to Circle because of inter-marriage to a man from Circle but are now almost all gone. My uncle Sandy Roberts went there, made a good living, and stayed.

4. The fishing and trapping were good at Tsuk Koo/Martin Creek until the beaver dams ruined the water. By then, I was about 12; that would have been around 1925. Anyway, we went to Christian Village where I had a sister

who was married to Jim Christian. I had three sisters altogether but then they died at a young age. It was Jim who taught me how to hunt big animals. I went with him one day when he was hunting moose. I saw how he followed it and how the moose travelled. After he shot it, I went with him and the dog team to help him bring it home. So then, I went out to hunt moose and copied every move Jim had made when tracking the moose. But I must have been doing something different because I got skunked. I got skunked 3 or 4 times but I kept trying until I got one. That was the beginning and then I knew how to hunt moose; that is how I learned from him.

5. I married Jenny Simon from Arctic Village whose parents were Eziias and Sarah Simon. Jenny had some relatives in Venetie (Jessie Williams, John Titus, and Clara Gundrum). Like everybody else, we didn't stay in one place but moved all the time. We went where the caribou or fish were. One winter, we went all the way to Bettles. Sometimes we would stay in Arctic Village for the summer. There were not many cabins in Arctic Village back in the 20s; probably less than 10. We mostly used tents in the summer or when travelling around in the winter. We stopped moving around so much about the time the first airplane came to Arctic Village in 1936.

6. We had many children; 11, but 2 of them died. In 1938, John Fredson was worried that the Venetie school would close and so he sent for us to come there. I took the whole family to Venetie by dog team. There was a school started later in Arctic Village by Katherine Peter, but we stayed in Venetie during the 40's.

7. We lived by hunting and trapping until 1952 when I got work in Ft. Yukon as a janitor in the hospital. At that time, some people were taking general assistance but not me; I would not take it and would not let any of my family take it. When I was working in Ft. Yukon, I didn't trap too much, but I would when I went to Arctic Village. We stayed four to six years in Ft. Yukon. It

was too rough there with lots of alcohol so we left in about 1956 or 1958 and came back to Venetie.

8. The hunting ground that I have used the most is a Ddhah ghoo, Round Mountain, about 12 miles above brown grass lake. It's at the big creek where the chain of lakes are; there are some houses there that we used to live in. It's quite a way down, about half way to Venetie, on the west side, not as far as the Gold Camp.

9. I claimed my Native Allotment below Venetie at #102 on the allotment map; my wife Jenny has her allotment north of Venetie in another place we used, at #101; my children Edward, Rose, Sam and Timothy all have their allotments on the Wind River closer (to Jenny's allotment at #'s 100, 104, 105, and 45, respectively.

10. The Elders have taught us to waste nothing of the animal. When we first moved to Christian Village, I learned from Chief Christian to make sure that every part of the animal was brought back to camp. Back then, I didn't understand why we had to do all that. When I asked my mother about it, she said that once when she was young, there had been some very hard times. Because of these bad times, they were so grateful to get an animal that they would use every part of it. They would clean it, treat it, and preserve it with respect as best as they knew how.

11. The most important part of their lives was preserving food for future survival. There was a fish trap to catch fish, then the fish would be dried so it can go with the people when they hunt sheep. A snare is set in the path of the sheep leading to natural soft grounds. When a sheep is snared, the people surrounded it and killed it with bow and arrows. After that is harvested, they cooked only a little for them to eat; the rest was dried and taken back down into the valley to be stored for the cold winter months. They might fish again when they returned from the sheep hunt but only until the time when the caribou would migrate this way. Then, they moved to their cari-

bou fences, set snares in the corrals and somehow would herd the animals into the openings in the fences. This was the best way to get the caribou because it would be too hard to get enough to survive the winter otherwise. When they were lucky, they harvested lots of animals and everyone would share the meat equally, storing most of it for future survival. This food would last until the middle of winter and when it began to run out, they moved to another location to hunt for food again. This is what we call the nomadic life and this is where we come from.

12. The animal would be butchered where it was killed so that the kill site would be left clean. If you bring back an unbutchered caribou, it leaves lots of blood on the snow. To keep the meat clean while butchering, some brush or willows should be cut and laid under the animal. The meat is skinned, cut into parts, the guts and intestines are treated. The intestines are stored in the stomach and then covered with the skin and stored. The guts is a big food meat along with the intestines and layer of fat around the stomach. If you get hungry and fry it, you won't get hungry again for a long time. Both the fish and the meat would be smoke dried and stored for the winter months. The women would tan the hides and sell them at Ft. Yukon. Everyone in the village would get a piece of meat.

13. If someone were to waste some part of the animal, the people would call a meeting of authorities. They would ask for the person that left the wasted animal, talk to him and tell him to not do that again. If the person violates the rule again, his gun is taken away. The third time it happens, the person is banned from the village.

14. If a person doesn't check his traps or fishnets, this is waste and must not be allowed. The animal has worked hard to survive and it's not right to leave it stuck in a trap. We don't know how badly that animal might feel. It would also be waste to let a wolverine get an animal that we have trapped.

15. There is no difference in wasting a big animal like a caribou or a small animal like a squirrel. Each one gives us nourishment so the result should be the same if someone wasted either of them. Jim Christian says that the Indian law is to take only what one needs; that there is no difference in killing bugs as killing caribou when it's not needed as some other animal might need those things.

16. In the early days, even though Arctic Village and Venetie were just like one family, we had Chiefs in each village. If you happened to be in Venetie, you would go to meetings there and vice versa. We always helped each other out. Anyway, there was never a time without a Chief. I remember some of the Chiefs—one was Peter who was Chief before I was born. There was Old Robert and Old John. Later, the sons of Old Robert were Chiefs, Ned, Jimmy and Jonas Robert. At Christian Village, when I went there, it was Chief Christian who was my brother-in-law's father. Chief Christian also had a daughter and raised Elijah Henry's son, Abraham Christian and Peter Christian. In Venetie, it was Silas John's father. If a Chief died, there would be a meeting to pick a new one. The people would talk it over for a short while but usually it would be the smartest person who was made Chief.

17. The Chief would make sure that there was enough meat, food, and water for the whole village. Everyone listened to the Chief and would do what he said. There were always meetings and everyone could talk but it was the Chief that made the decisions. In the old days, there was no Council, but there was a First and Second Chief.

18. The first Council in Arctic Village was started in 1936. It was not much later when John Fredson began to push for a reservation. We had many meetings about it, everybody worked hard for it because we knew we needed it to protect our children's future and save the fish and caribou, our food supply. We all agreed on the reservation. We marked houses, caches, cabins, all down the

East Fork and then up Christian River and up Table Mountain with the reservation boundaries. We wanted to get John Frank's gold camp but for some reason, that didn't work.

19. That was also about the time we worked on a road from Venetie to Christian Village at John Fredson's suggestion. The government paid us in flour and sugar to make a road so we cut wood and worked hard but the food ran short and we had to stop about 10 miles before we reached Christian Village.

20. Nowadays, the Chief and the council are elected from those who are always in the village. There are three councils; the Arctic Village Council and the Venetie Village Council take care of the local problems and the Tribal Council takes care of the land. The local problems are things like fighting drugs and minor crimes. If something bad happens, you can call the chief to get the authority to do whatever needs to be done. First we warn people about the penalties, then fine them, and double fine them. As a last resort, they are forced to leave the village.

21. The Tribal Council is the one that stands up for us in lawsuits over the land or in such things as adoptions. They have encouraged people to build on their Native Allotment land to show others that they are using it. As for adoptions, in the old days if the parents died or could not take care of a child, either the grandparents or another family who had plenty of food would take the child. The new family would consider the child its own flesh and blood. It has happened many times in the past.

22. An outsider who marries into a family does not become Gwich'in and cannot be enrolled on the reservation list but the children can be enrolled. Gwich'in means community of people who live in a particular place.

23. A non-member is not allowed to have a business on our land. John Fredson has told us that this will not

work. The non-member brings down our strength and destroys the land. The only way to keep them from doing this is to ban them from doing business altogether. Someone who lives here with us for 5, 10 or 20 years and takes care of things like we do, becomes like us but still cannot do business on the land. A non-member can rent space if he leaves something here but if a non-member operates a business on tribal land, I will claim all his belongings and make them leave.

24. No one can hunt from an airplane. When we hunt, we are limited to a certain area. Beyond that, the animal is safe from our guns and can reproduce. The animal is never safe from the airplane, it will be killed and there will be no animal to reproduce. The herds will decline and our people will have no food.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF JESSIE WILLIAMS

1. My name is Jessie Williams; I was born in 1930 at a camp near Ft. Yukon. I was the oldest child. I had one brother who died, and I have two sisters, Clara Gundrum and Sarah John. My father Enoch John was born in 1893 and was from Ft. Yukon. My mother Mary Simon was born around 1908 and was from Arctic Village. Her parents were Sarah and Ezias Simon from the Arctic Village area. They had 17 children but the only one alive today is my mother's sister Jenny Sam who married Moses Sam and lives in Arctic Village today. My family lived in Venetie and that is where I grew up.

2. My mother died in 1940 and my father was nearly blind. My youngest sister Sarah was raised by Johnny and Sarah Frank after our mother died. This was a common practice of our people. If some family had too many children or if the parents died or something like that, then another family might take some of the children and raise them. For instance, Christian Tritt was born a Henry but his parents had too many children; he was raised by Albert and Sarah Tritt in Arctic Village; his brother Abraham Christian was raised by Chief Christian who was well off and didn't have too many children. This was decided by the families. It still happens but not as much as in the old days because people don't have so many children.

3. My sister Clara and I helped our father haul wood which we traded at the store for flour, sugar, rice, and oatmeal which were sent out by the BIA. We also lived

on wild game such as caribou which people brought to us because my father couldn't hunt. My father also worked at the Episcopal church in Venetie as a lay reader from 1921 until 1972; in 1952 Paul Tritt came down from Arctic Village to be deacon of our church and he later became a priest. My father also interpreted for white people who came to Venetie. He died in 1972.

4. I went to the BIA boarding school at Mt. Edgecumbe from about 1949-1955, and then moved back to Venetie. My sister Clara went too and she graduated in 1957. I got married to Albert Williams in 1963. We met in Ft. Yukon which is where we went to buy groceries. He was from Chalkyitsik and after we got married we visited there in the summer, but we never lived there. We lived in Venetie because I had a job there. I was working for the Post Office from 1960 to 1980. I also became the Village Health Aide, too. I retired from the Post Office because I got too busy. But I still work as a Health Aide.

5. My husband died in 1981, and we never had any children. I don't go back to Chalkyitsik because there's nobody to go there for. There is only one brother of my husband's left. I filed for a Native Allotment which is marked as # 114 on the allotment map.

6. We go to Arctic Village for the spring carnival and the Gwitch'in Gatherings. I go there to the clinic because of my job as a health aide. I have some relatives there, too. My father was related to Maggie Gilbert and her children Kias Peter, Trimble Gilbert, and Florence Newman are still in Arctic Village. My aunt Jenny Sam, her husband Moses Sam, and some of their children live there, too. They come here to visit, too.

7. Venetie and Arctic Village each have a local village council and a local chief. The village council takes care of village problems, like alcohol problems, and kids causing problems. The council also maintains the generator and runs the clinic and store. I was a member of the village council in Venetie one or two times in the

60's. David Henry was the village chief for many years in Venetie. The council worked to stop alcohol coming into the village and the men would search all baggage coming into the village. The village council would give people fines and make them do community work if they violated the alcohol ban; sometimes the council would issue "blue tickets" to people who violated the alcohol ban and they would be banished from the village for some time.

8. When I was a young girl I remember lots of meetings were held I had to baby sit back when I was 10 or 11 years old when they had these long meetings until 2:00 or 3:00 in the morning to talk about getting the Reservation. I have heard about the Common Council. It took care of the whole land. I don't know much about land claims, but the Common Council had lots of meetings about it. People from Arctic Village and Venetie were on the Common Council.

9. At some point the Common Council began to be called the IRA Council but I don't know when the name changed. It's really all the same thing. It takes care of the land, sets landing fees and things like that. The IRA Council decides who can be a member and who can live on the Reservation. You have to be a member in order to vote in IRA elections.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF MAGGIE ROBERTS

1. My name is Maggie Roberts and I live in the Native Village of Venetie. I am the youngest of fourteen children born to Johnny and Sarah Frank; they had ten boys and four girls. There are only four of us still alive, me and three brothers: Nathaniel, Hamel and Dan Frank. We lived mostly in Gold Camp while I was growing up but often we would travel back and forth between Gold Camp and Venetie. Gold Camp was about 35 miles away from Venetie to the west and north going towards Arctic Village. I lived there from the time I was born in 1935 until I got married to Jimmy Roberts in February, 1953. Both my husband and I selected our Native allotments in the Gold Camp area. Mine is marked #97 on the Native Allotment map; Jimmy's is #94. My father had two parcels in the same area which are numbered #81 and #82; my brothers and I inherited his Native allotment parcels when he died.

2. My parents were from the area around Arctic Village; they moved to Gold Camp the year before I was born. When I still lived with my parents we would hunt and trap and fish for food. Often, we would join up with other Venetie or Arctic Village people such as Moses Sam, Daniel Roberts, David Henry, Jonas Roberts, Henry John, Enoch John, and Jessie Williams in order to hunt caribou and/or moose. My family was really the only family that stayed in Gold Camp at that time. It got so the men would have to go out with the dog teams for miles and miles to look for caribou. At the hunting camp, we

would set up tents. We would dry whatever meat we got on racks and then bring it back to the village in a skin boat. Back in the 1950's, transportation was much more difficult. My husband's grandfather had the first nine horsepower motor which everyone liked. Nowadays, everyone has a motor boat.

3. We also shared a fish camp with the others and dried the fish as we did the meat. We would make a cache to store the food for winter. Trapping was a little different. Each family had their own trapline. The men, and sometimes, the women would go out and check the traps. The lines were spread out over quite a distance and the family might have a number of small cabins along the way for overnight stays.

4. I could locate Kahtsik, the fish camp, on the map as well as the Gold Camp and Christian Village. Some of the Arctic Village people still use the fish camp and trap around Christian Village. There is a trail from Gold Camp to Christian Village. I've never used it myself. It's mostly members of Chief Christian's family that trap down there.

5. Even after I got married we travelled back and forth a lot; sometimes, we travelled all the way to Arctic Village. But, mostly, after getting married we stayed in Venetie because of the school. I had ten children and wanted them to go to school. Two of my brothers had gotten to go to school but I was never in Venetie as a child long enough to take advantage of it. I remember my father, John Frank, the Chief of Venetie a long time ago, appointed Hannah Stevens to teach at the school and even paid her out of his own pocket until John Fredson took the school over. John Fredson would strongly encourage families to come to Venetie so the children could attend the school. He was afraid the government would close the school if there weren't enough people coming. He asked my father three times to bring our family to Venetie.

6. There were elections for village chief every year. Some of the people who have been village chief in Venetie in the past are Daniel Roberts, David Henry, Ned Roberts, Abraham Christian, Steven Fredson, Elijah John. The elections would be after the New Year's celebration. That was a time when there would be family and village gatherings and visits, even before the white man came. You could only vote if you lived in the village, were present at the gathering, and were at least 18 years old. Sometimes, my parents would be present to vote, sometimes not. The chief would oversee the council. Together, the chief and the council would help people having problems on the local level. If a family didn't have enough food, the council would make sure those people did not go hungry. Or, they might step in if there was an alcohol problem. I, myself, have been on the village council for many years in the past from 1970-1990.

7. Each village council and Arctic Village and Venetie combine in a single tribal council. It is called the Native Village of Venetie Tribal Government now. The Tribal Government council works to protect the rights and land of both villagers and villages from outsiders. These tribal council members and chiefs are elected for two or three year terms on the Council. A council member can be re-elected. Again, the voting age is 18 and any member can vote. The first time I ever voted, Abraham John was the tribal chief. One of the things the council takes care of is whether outsiders such as the white people coming up from Fort Yukon can hunt on tribal land. A non-member must ask the village chief or the tribal chief for permission to hunt. Even if they get permission to hunt on our land, they cannot hunt alone but must have a member go with them. This is necessary to protect the game and the land and make sure that there is no waste. The outsider can take whatever he/she needs as long as there is no waste. I don't know of any special rules, otherwise, about hunting. That's what the council and the chief is for—to make those kinds of decisions.

8. It would be the tribal council that deals with adoptions. Usually, other village families would be glad to take in children whose parents had died. My family took in Sarah John when her mother died. She was about eight or nine when that happened, about a year older than me. Her two sisters went to live with their father Enoch John's family. Then, when the daughter of Silas John was eleven and lost her mother, she came to live with me.

9. There are nine members on the tribal council. Four are from Arctic Village, four from Venetie and the ninth is the chief. Both the tribal and village councils can act as courts. The village council will hear the local issues. If someone has broken the rules or been drinking or the store is broken into, the village council will make the person do community service or return the items or pay for damages. If there is a problem between a couple, the village council will try to help them talk things over. Just recently, teenagers who have gotten into trouble have been assigned two hours a day to assist some of the elders with their activities of daily living.

10. The tribal council may act as a court if there is trouble with a village chief and both councils may join forces if there is a major problem that needs to be addressed. Enrollment in the tribe is decided by the Tribal Government. You don't lose your membership by moving out but it's hard for a newcomer to qualify. There is only one membership list for both Venetie and Arctic Village so a person can vote in either place when there is an election.

**IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA**

(Title Omitted)

NARRATIVE TESTIMONY OF ROBERT FRANK

1. My name is Robert Frank and I was born in a tent on the banks of the Chandalar River between Venetie and Venetie Landing on July 15, 1944. My natural father was Allah Frank who died before I was born. My mother is Annie Frank who is still alive today. She married Nathaniel Frank before I was born. Together they raised me and 12 other brothers and sisters.

2. Allah and Nathaniel Frank were the sons of Johnny and Sarah Frank who originally lived in the Arctic Village area, then moved to Gold Camp which is between Arctic Village and Venetie but further west and outside the borders of the Reservation. My grandfather Johnny Frank claimed his Native Allotment there (his two parcels are marked # 81 and # 82 on the allotment map. Sometimes my grandparents lived at Venetie where my grandfather was the Chief and worked with John Fredson to set up the Reservation and the IRA government for the Neets'ai Gwitch'in people; my mother Annie was the daughter of James and Myra Roberts who lived in the Venetie area. Her sister Julia married Paul Tritt, son of Albert Tritt from Arctic Village. Paul and Julia had a house in Arctic Village but they moved to Venetie many years ago and Paul is the Episcopal lay preacher in Venetie. Another of my mother's sisters was Maggie who married John Erick, Sr. from the Venetie/Kahtsikh area.

3. I was raised in and around Venetie where I attended school through the eighth grade. I learned English at

school. At the age of 18 I went to boarding school at Chemawa, Oregon and graduated from high school two years later, in January, 1964. I went immediately to San Francisco as part of the BIA relocation program and spent about one year there. After that I joined the National Guard and did my basic training at Fort Ord, California. I returned to Venetie in approximately 1966, and pretty much stayed there until 1982 when my wife and I moved to Fairbanks because of medical care that I needed and because my wife wanted to attend college. I return to Venetie five or six times a year to visit, take part in hunting, fishing and community activities, and to participate in Tribal government meetings.

4. I married Bertha Eric in 1968. Bertha is the daughter of Natalie and Paul Eric; she was raised in Fort Yukon and at Katsikh, the fish camp where the Eric family spent many months of the year. As far as I know, Bertha's mother Natalie is from Circle; her father Paul is a tribal member from Venetie/Katsikh. Bertha's brother is John Erick, Sr. who changed the spelling of the family name by adding a "k" at the end. That is why John's children Ernest, Vera, Sherry, Richard, Robert and Virginia all spell their last names "Erick."

5. Although I was mostly raised in Venetie, my family traveled in the summer down the Chandalar River to Martin Creek where we caught and dried white fish; in September we would return to Martin Creek to catch and freeze more fish. All of the fish would be stored in a cache built up off the ground. Later, during the winter, the fish would be hauled back to Venetie by dog sled for our winter food supply. There were two fish camps close together, about a one day's walk from Venetie. Most of the families would go down together for the summer fishing. When I was a boy and before we had boats with motors, we would usually walk to fish camp; some of us boys would actually swim down the river a good part of the

way. We would also all go out to Big Lake near Venetie for spring duck hunting; sometimes the people from Artic Village would come down and go duck hunting, too. Dog salmon also come up the Chandalar as far as Venetie but they aren't much good for food; people catch them and dry them for dog food, but that's about it.

6. We also spent time at Gold Camp where my grandparents had built cabins; we stayed there for moose hunting in the fall. We would make a skin boat at the end of the hunting season to float the meat down the Chandalar back to Venetie. Caribou used to come by Venetie but in my lifetime they have changed the trails they follow so people in Venetie now have to go up to Arctic Village to hunt caribou. When the caribou come around, there is a group meeting where it is decided which groups will go where and who will hunt for the old people. I remember my first time going to hunting camp. I was about 10 years old and Moses Sam was the hunt leader. He was in charge of dividing up the meat and making sure everyone got some. He decided when to stop the hunt after everyone had enough meat.

7. In Venetie we lived in log cabins; we lived in tents at fish camp and often when hunting. Some people built small cabins out on their traplines. I used to trap between Gold Camp and Venetie and also down towards Martin Creek. I would always leave my traps out on the trapline so that the smell of humans would not contaminate them. No one would bother anybody else's traps; everybody knows your area and respects it. Even after I moved to Fairbanks, I returned for one trapping season with my nephew Lawrence Roberts. We had a good season trapping for lynx during the 1987-88 season. I haven't gone trapping since then.

8. When I was a child there was only about one flight a week to Arctic Village. My step-brother Stanley Frank and I flew up to Arctic Village when I was about

14 years old. It was my first trip there but I knew a lot of people who had visited in Venetie; I also recognized a lot of people from pictures my family had shown me of various relatives who lived in Arctic Village. We were treated just like part of the family by the people in Arctic Village; they fed us and seemed very happy to see us. From Arctic Village, Stanley and I walked down to Gold Camp, about a 3-day walk, and then back to Venetie. I also lived in Arctic Village for one year in 1978 when I was working on an elders grant project; I helped out with paperwork and helped start a summer youth program. My relatives in Arctic Village include the James Gilbert family who are related to Johnny and Sarah Frank; I'm also related to Alice Peter.

9. I filed for my Native Allotment on the Chandalar River below Venetie near my parents' Allotments. Mine is marked # 84 on the map; my mother Annie Frank's is # 76; my step-father Nathaniel Frank's is # 83. My brothers Amos and Clifton Frank also selected their Allotments in that area. Amos' is # 75 and Clifton's is # 79. My wife Bertha filed for her Native Allotment down in the vicinity of Fish Camp/Kahtsikh. It is marked # 69.

10. Venetie and Arctic Village have village councils that take care of local matters while the Native Village of Venetie Tribal Government is the governing body for the entire reservation. As far as I know, this has been the situation since the early 1960's. I remember when I was about 18 years old, just before I went away to school at Chemawa, there was a big meeting in Arctic Village where leaders from both villages met with BIA people to talk about how the IRA government would continue to protect the land and govern all the people on the Reservation. As far as I can remember, this is the time when it was decided to keep the local village council in Arctic Village and for Venetie to have a local village council, too, and to continue having the IRA council govern and protect the whole reservation. The idea was to have members from each village elected to a common council so Arctic Village

wouldn't feel that they had no say in the government of the reservation.

11. In 1967 or 1968 I was elected chief of both the Venetie village council and the IRA government. At that time the IRA government was usually called the "Native Village of Venetie." Now it is usually called "Native Village of Venetie Tribal Government" or just "Tribal Government." I pretty much stayed on the village and tribal councils all those years until I moved to Fairbanks in 1982. Even after that, I have been elected to the Tribal Government Council several different times while I was living in Fairbanks and have traveled back to Venetie for Arctic Village for Council meetings at least once or twice a year.

12. Two of the most important things ever done while I was involved with the Tribal Government in the 1960's and 1970's were the protecting of tribal ownership of the land and enforcing the ban on alcohol consumption and importation throughout the reservation.

13. We began actively working on banning all alcohol in the 1960's after many incidents of violence and other problems caused by people bringing alcohol to our villages. In Venetie we had meetings of all the people that went on for many hours. We selected Christian Tritt as our tribal judge. Anyone that the Council believed had violated the alcohol ban would have to go before Christian Tritt, whose job it was to pass sentence on the person--how much of a fine to pay or how much community service the person had to do. When I was Chief I never did like to use the "blue ticket," which causes a person to be banished from the reservation for a certain period of time. It was my belief that we needed all the tribal members right there on the reservation, but others after my time have used "blue tickets" and banished people who violate the alcohol ban. It is my belief that the reason we are successful in getting rid of alcohol on the reservation is that we had

many, many meetings and talked a long time among ourselves. The rule to ban all alcohol was decided by all the people and they supported the Tribal Council and the local village councils in enforcing the ban. When I was Chief I also talked to the FAA and pilots and people who owned the planes coming into Venetie and Arctic Village and tried to educate them about not bringing in alcohol. One of the jobs of tribal and village council members was to search all baggage of incoming planes. Any alcohol found was destroyed or sent back to Fort Yukon. The ban is still strictly enforced to this day.

14. The other major issue we had to deal with was the land claims settlement. We had many meetings in both villages educating ourselves about the settlement and what options we had. I traveled a lot in those days, even to Fort Yukon and Katsikh, trying to reach all of our members to let them know that we had to decide about keeping our reservation land or choosing a smaller amount of land and getting some of the money from the land claims settlement. Some of the things people talked about at these meetings was how hard our ancestors had worked to get the land in the first place and to protect it from outsiders and how we had to keep protecting it for the future generations. It was no surprise to me that the vote was overwhelming in favor of keeping all of our reservation land instead of becoming Doyon shareholders and getting a part of the settlement money.

15. Because of ANCSA, two corporations were formed, one for each village on the reservation. People had to sign up to be enrolled to either Venetie or Arctic Village; those enrollees are the people who voted on keeping the reservation lands or joining the Doyon region corporation. We never did like those state-chartered corporations so we made up our minds to transfer our land to our tribal government. Finally, in 1976, we passed resolutions and sent notices to state and federal agencies and to Tanana Chiefs Conference about the fact that our IRA tribal gov-

ernment was going to be called Native Village of Venetie Tribal Government and that it governed over all the reservation lands.

16. I went to Anchorage in December of 1979 for the signing of the patent from the federal government jointly to the Venetie Indian Corporation and the Neets'aai Corporation of Arctic Village. It was the largest single tract of land ever conveyed by the federal government to private owners; the Anchorage Daily News ran my picture with a story that said we got title to an area larger than the state of Delaware. The corporations deeded all that land to our Tribal Government and then we just stopped operating the corporations. This was all right with all the tribal members because having corporations to run just made more jobs for the same few people. For instance, I was a corporation officer as well as a village and Tribal Council member. It could get very confusing which hat a person was wearing with all those organizations. It was just much better for us to stick with our tribal and village council system of government.

17. When I was the IRA Tribal Government Chief I also had to deal with matters involving children of our members. I remember one time a state social worker went up to Arctic Village because someone had filed a complaint. I told the state not to come into our villages unless they heard from the Tribal Government first. After that we never had any problems. In those days adoptions were done the "old way"—that is, by agreement between families or between family members. That has always been how we take care of our children.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

TESTIMONY OF SHIRLEY LEE

1. My name is Shirley Lee and I am currently employed by the Tanana Chiefs Conference (TCC) as director of the Community and Natural Resources Department and as director of the Village Government Services.

2. Education: I am a certified paralegal, having completed a two-year Indian Law program offered by the Antioch School of Law. My training was obtained from 1979-80 at the Washington D.C. law school.

3. In February 1988 I was hired by the Fairbanks Agency Office of the Bureau of Indian Affairs as Tribal Operations Specialist, overseeing that program. I worked under the supervision of Mike Stancampiano who was then superintendent of the Fairbanks agency. At that time the Fairbanks Agency tribal operations program provided training and technical assistance in all aspects of tribal operations to twelve tribes, including the Venetie IRA council and the village councils of Venetie and Arctic Village. Services included constitution drafting, ordinance drafting, enrollment and administrative functions.

4. The Fairbanks agency office dealt with three government entities on a government to government basis. Venetie and Arctic Village are governed by local village councils, while the land base (the former Chandalar reserve), entire membership and non-members within the land base are governed by an Indian Reorganization Act tribal government known as the "Native Village of Venetie Tribal

Government" (NVVTG). The village councils are recognized as governmental subdivisions of the NVVTG and as such are eligible for direct services from the BIA.

As director of tribal operations, I oversaw the delivery of tribal operations services. Specific tribal operations services provided to the NVVTG included a tribal enrollment project. I assisted the council in drafting a tribal enrollment ordinance, which was used to interpret tribal membership requirements contained in the Venetie IRA constitution. The ordinance was adopted by the tribal membership after a series of educational meetings. I also assisted in the formation and utilization of an enrollment committee, whose job it was to collect and review tribal enrollment applications and to make recommendations to the council on approval or disapproval of each application. Committee members were appointed by the council through resolution. The committee was quite active during my employment at BIA and processed many applications from both the Venetie and Arctic Village Gwitch'ins who comprise the Venetie IRA tribal membership.

4. NVVTG worked with the BIA to create a tribal enrollment list, which is a living document continually being updated. The purpose of the enrollment project was to formalize the enrollment to provide easier identification of the NVVTG tribal membership. This was prompted in part by the Indian Health Services adoption of proposed amendments to their eligibility criteria, which would require eligible service recipients to be enrolled tribal members and not merely of Native ancestry. The IHS tribal enrollment criteria were placed in moratorium and have not yet been implemented.

5. Qualifications for enrollment are enumerated in the IRA Constitution and clarified in the enrollment ordinance. The ordinance also sets forth the enrollment process. Applicants for tribal enrollment submit applications and supporting documentation in the form of birth

certificates and/or paternity affidavits to verify their lineage. Applications are then reviewed by an enrollment committee to insure accurate documentation is provided and to make a approval or disapproval recommendation to the NVVTG council.

6. During my employment at BIA I travelled to Venetie and Arctic Village on a regular basis to work with the Venetie IRA Council and the two village councils to provide programmatic services.

7. In June 1991 I was offered the job of Director of Village Government Services for the Tanana Chiefs Conference, Inc. (TCC). TCC is a nonprofit tribal consortium that provides services to its forty-three (43) member tribes. TCC currently employs some 600 staff to carry out this function.

8. TCC's primary role is to deliver programmatic services. TCC contracts primarily with the Bureau of Indian Affairs and the Indian Health Service, but delivers some programs contracted from the state and other sources. Service delivery is facilitated by six TCC subregional offices which are: (Fairbanks) Yukon-Tanana Subregion; (Fort Yukon) Yukon-Flats Subregion; (Galena) Yukon-Koyukuk Subregion; (Tok) Upper-Tanana Subregion; (McGrath) Kuskokwim Subregion; (Holy Cross) Lower-Yukon Subregion. Venetie and Arctic Village fall within the Yukon-Flats Subregion. Coordination of service delivery is handled out of the TCC Central Office in Fairbanks.

9. Only federally recognized tribal governments are allowed to contract under P.L. 93-638 for direct services. Since TCC is not a tribal government, it must receive authorization from the tribal councils within its region to contract in their behalf. Currently, TCC receives specific authorization from the tribal councils for each project that it contracts and manages.

10. TCC had a 1992 budget of \$29.9 million dollars. A breakdown of funding sources is as follows: \$18,458,000 from P.L. 93-638 (Indian Self Determination Act) contracting with the Alaska Area Indian Health Service; \$3,520,000 from P.L. 93-638 contracting with the Bureau of Indian Affairs; \$4,165,000 from miscellaneous federal grants; and \$3,836,000 from miscellaneous state grants.

11. The service programs that TCC operates include the following:

Health Care funded by AANHS contracts:

Health Administration—Includes Department Management, Chief Andrew Isaac Health Clinic Administration, SR Offices, and Business Office

Direct Clinical Care—Includes Medical, Nursing, Pharmacy, Dental Subregional Clinic, Records and Eye Clinic

Contract Health—Includes Hospital, Specialty Medical, and Patient Travel

Community Health—Includes Health/Safety Education, Outreach Workers, Environmental Health, Hostel, Nutrition

Mental Health—Includes Mental Health, Alcohol/Drug, and Tok Area Alcohol

Health Aides—Includes Health Aide Services, Training, and EMS training

Tribal Resources funded by BIA contracting:

Natural Resources—Includes Forestry, Wildlife & Parks, Agricultural & ANA Agr. Extension

Realty/Lands—Realty, ANILCA Realty

Village Government—Credit & Finance, Government Services, Tribal Operations

Other Client Services funded by miscellaneous federal and state grants:

Housing/Utilities—Includes Energy Assistance, Homeless/Emergency, M. H. Housing, Weatherization

Training/Education—Includes Aids Prevention, Domestic Violence, Recovery Camps, Alcohol/Drug, Mental Health, Health Aide Training, Nutrition Counseling, Pre-maternal Counseling

Children/Youth—Includes Head Start, JOM Education, Youth Treatment, Child Care Services, WIC Nutrition, Village 4-H, Infant Learning

Public Safety—Includes VPSO

Miscellaneous programs—Includes Disabled Case Management, Elderly Nutrition, Community Development, Economic Development, Fish/Wildlife Co-op, BIA Self-Governance, Indian Child Welfare, Remote Maintenance, McGrath Health Center, Developmental Disabled, Alzheimer Respite.

12. TCC has been authorized to contract on the tribes' behalf for health services, but has retained the authority to contract directly with the BIA for other services. To determine the share of ANHS funds available for Native health care in Venetie and Arctic Village, a population share formula is generally used. For example, based on the 1990 census, Arctic Village had a population of 90 Alaska Natives and Venetie had a population of 261 Alaska Natives. The total population for the two communities is 261, which represents 2.5 percent of the total Alaska Native population that TCC serves. FY 1992 IHS recurring funding for the TCC area was approximately \$14,765,000 in the contract and \$1,000,000 for Indian Health Service personnel assigned to TCC, for a total of \$15,765,000. Arctic Village/Venetie share of this amount would be approximately \$395,000 per year.

Currently, TCC allocates more than this amount of funds for services to the residents of these communities. This is due to the weighted allocation of TCC funding in favor of village beneficiaries over Fairbanks beneficiaries to adjust for the access to care differential. The following is a cost allocation for Venetie and Arctic Village based on FY 1992:

| SERVICES | ALLOCATION |
|---|------------|
| A. Community Health Aids Services | \$125,000 |
| Two primary CHAs in each community | |
| Health Aide Supervision from Fort Yukon | |
| Health Aide Training: Fairbanks | |
| B. Yukon Flats Health Center in Fort Yukon | \$ 75,000 |
| Daily Health Aide Consultation | |
| Medical Evacuations | |
| Physician assistant services | |
| Community Health Representative services | |
| Dental services in Fort Yukon and itinerant visits to Venetie/Arctic | |
| C. Services at TCC CARE CENTER in Fort Yukon | \$ 10,000 |
| Mental Health/Acohol Counseling counselor visit to Arctic Village/Venetie | |
| D. Village School and community Health & Safety | \$ 5,000 |
| Education Services (HIV/AIDS, FAS/FAE, Youth, Tobacco Cessation, Injury Prevention) | |
| E. Services of Chief Andrew Isaac Health Center | \$ 60,000 |
| Physician/PA/Nursing/PHN services | |
| Pharmacy Services | |
| Mental Health/Alcohol/Nutrition Counseling | |
| Maternal/Child | |

| | |
|--|------------------|
| F. Contract Health Services | \$135,000 |
| estimated at \$500 per resident, includes: | |
| inpatient hospital care | |
| specialty medical care | |
| outpatient surgery services | |
| patient transportation services | |
| G. TCC Dental Clinic in Fort Yukon | \$ 5,000 |
| H. TCC Eye Clinic in Fairbanks/Fort Yukon | \$ 2,000 |
| I. Patient Hostel in Fairbanks | \$ 3,000 |
| J. Environmental Health Services from Fairbanks | \$ 5,000 |
| Annual clinic/water/sanitation surveys | |
| Annual community env. health profile | |
| Annual rabies vaccination clinics | |
| Assistance with project engineering | |
| K. Health Services administration | \$ 20,000 |
| including personnel, payroll, purchasing, travel, accounting, board meetings, audit | |
| TOTAL TCC RESOURCES ALLOCATION | \$445,000 |

13. Venetie and Arctic Village are also beneficiaries of other service programs run by TCC, funded by state or federal grants.

14. The Women's Infants and Children's Supplementary Food Program (WIC) is operated by the TCC nutrition program. The program is funded by a grant from the Alaska Department of Health and Social Services, Division of Public Health, Section of Maternal Child Health and Family Services. This section is awarded a Federal Grant from the U.S. Department of Agriculture Food and Nutrition Services on a yearly basis. This money is then awarded to grantees around the state. Arctic/Venetie have an average of 12-15 clients who participate in the WIC program. The estimated administrative cost for each village is \$1450 for one year of services.

15. In Fiscal Year 1994 TCC will be participating in a Self-Governance Demonstration Project, converting the majority of their Bureau of Indian Affairs programs contracted under P.L. 93-638 to a compact obtained pursuant to P.L. 100-472. The compact is intended as an experiment in the areas of planning, funding and program operations within the Government-to-Government relationship between Indian tribes and the United States. The NVVTG and the traditional councils of the Venetie and Arctic Village have elected not to participate in the compact and will continue to receive direct service delivery for BIA programs from the Fairbanks Agency.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF WILL MAYO

1. My name is Will Mayo and I have been the President of the Tanana Chiefs Conference for the past two and ½ years. Before that I was the Director of the Village Government Services at TCC. I am an Athabascan Indian and grew up in Fairbanks, Alaska. Most of my family is originally from Tanana. I spent some of the time while I was growing up in Tanana and lived there for several years after I attended college in Seattle. I was in Tanana from 1976 until 1984 when I moved to Fairbanks and began to work for Tanana Chiefs conference.

2. TCC's primary role is to deliver programmatic services. TCC contracts primarily with the Bureau of Indian Affairs and the Indian Health Service, but delivers some programs contracted from the state and other sources. Service delivery is facilitated by six TCC sub-regional offices which are: (Fairbanks) Yukon-Tanana Subregion; (Fort Yukon) Yukon-Flats Subregion; (Galena) Yukon-Koyukuk Subregion; (Tok) Upper-Tanana Subregion; (McGrath) Kuskokwim Subregion; (Holy Cross) Lower-Yukon Subregion. Venetie and Arctic Village fall within the Yukon-Flats Subregion. Coordination of service delivery is handled out of the TCC Central Office in Fairbanks.

3. Only federally recognized tribal governments are allowed to contract under P.L. 93-638 for direct services. Since TCC is not a tribal government, it must receive authorization from the tribal councils within its region in

order to contract in their behalf. In the past TCC received general resolutions from tribal councils authorizing TCC to contract on behalf of tribes. Currently, TCC receives specific authorization from the tribal councils for each project that it contracts and manages.

4. TCC had a 1992 budget of \$29.9 million dollars. A breakdown of funding sources is as follows: \$18,458,000 from P.L. 93-638 (Indian Self Determination Act) contracting with the Alaska Area Indian Health Service; \$3,520,000 from P.L. 93-638 contracting with the Bureau of Indian Affairs; \$4,165,000 from miscellaneous federal grants; and \$3,836,000 from miscellaneous state grants.

5. I have traveled to both Venetie and Arctic Village to meet with the local village councils and tribal members. In the course of working with the village councils I learned of the existence of the Native village of Venetie Tribal Government, which is the umbrella Indian Reorganization Act Government for the two villages. It is my understanding that that IRA Government exercises authority over the entire land base and tribal membership.

6. The former Chandalar Reservation is owned by the IRA Government which exercises governmental authority over the area. This includes the authority to determine who may come and remain on tribal lands as well as the authority to determine the rules of conduct while anyone—member or non-member—is present on tribal lands. The local village councils, however, administer law and order on a day to day basis. It is clear to me, and recognized by TCC's member tribes, that the Neets'aii Gwich'in of Venetie and Arctic Village constitute a unified tribe that exercises exclusive control over its territory within the former Chandalar Reservation.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF PIERRE DEMERS

1. My name is Pierre Demers. My wife Meggie and I are Wycliffe Bible translators. Since 1979 we have been working on a Gwich'in Translation of the New Testament of the Bible. We lived in Venetie from 1979 until 1986 when we moved with our three children to Healy, Alaska. I return to Venetie for about one week of every month; occasionally I go to Arctic Village as well. We anticipate it could take up to 10 more years to complete our Bible translation project.

2. Both my wife and I have bachelor of science degrees in Biblical studies from Bethany Bible College, although some of our undergraduate work was also done at the University of California at Santa Cruz. We then did post-graduate work through the Wycliffe Summer Institute of Linguistics at the University of Arlington in Texas and the University of Oklahoma at Norman, Oklahoma. We completed six months of field training in Southern Mexico and then came to Alaska as Wycliffe Bible translators. We chose the Gwich'in Bible translation project from among several possible alternatives.

3. Upon our arrival in Alaska, I traveled to Venetie with Dick Mueller, the Wycliffe translator who had been working on the Gwich'in New Testament for many years himself. He introduced me to the Venetie Village Council, we explained the project, and requested permission for me and my family to live in Venetie to learn the language and culture of the people. Later we were informed

that the Council had approved the request and asked for help in finding us housing. Steven Fredson came forward and offered us a reduced rental rate for the small log cabin next door to his frame house. We lived there for the remainder of our time in Venetie. We already had one two-year old child when we arrived in Venetie and two more children were born during the years we lived there.

4. For the first two years, we immersed ourselves in the daily life of the Village, learning the language and as much about the culture as possible. I went hunting, fishing or out on traplines just to observe and learn. Our first translation project, a Bible story told in comic book style, was done at the request of the elders in the Episcopal church to be used in Sunday school lessons for the children of Venetie and Arctic Village. Then we were asked to translate favorite English hymns into Gwich'in. We also began to work on revisions of some of Dick Mueller's earlier work and some original translations of parts of the New Testament.

5. We work with Native Gwich'in speakers such as Judy Erick, Mary Rose Roberts, Caroline Tritt Frank, who donate their time and receive no pay; after a draft of a text is prepared, larger groups of people in each Village review the text and give suggestions for changes and clarifications. For at least the past two years, the Episcopal Church in each Village has been able to include at least one text in Gwich'in in each of their services.

6. Even though we were given official permission to live in the Village by the Village Council, it took about five years of living there before we were really accepted by community members. The Council gave us permission to get fire wood and to go hunting and fishing but we could not vote in local elections. Because of how long we lived there the Council did not require a local resident to accompany me every time I went out hunting and fishing, although this rule was applied to all other "out-

siders" who came to the Village. For instance, the school teachers were not given the same privileges we enjoyed. Jessie Williams, the Village health aide gave our children Indian names.

7. Many of our friends have been Village or Tribal Council members or chiefs. From these contacts and our general knowledge of the two communities I learned about the governmental structure which includes two local Village councils and a tribal council overseeing both Villages and generally dealing with outside agencies. For instance, when we arrived, the Tribal Council was involved in negotiations for some oil and mineral exploration on tribal lands.

8. The Village Council in Venetie took care of local problems much like a city council does. For instance, on two separate occasions while we were away from Venetie, our home was broken into and some items stolen. The Village Council found out which youths were responsible, saw to it that the missing items were returned, and determined whatever discipline would be imposed on the youths. Most of my dealings were with the Venetie Village Council.

9. The people of Arctic Village and Venetie definitely see themselves as a distinct group of Gwich'in Athabascans. They consider themselves to be the "mountain or Neets'ai people and Caribou or meat eaters. The people of Fort Yukon are considered people of the flat country and fish eaters. There are considerable language or dialect differences, mainly at the word level, between the Gwich'in spoken at Fort Yukon and that spoken at Arctic Village/Venetie—this requires a careful search for "compromise" wording in our Bible Translations because we simply cannot write entirely separate translations for Arctic/Venetie and for Fort Yukon. If we didn't work on finding words common to all Gwich'in Village we would end up with Fort Yukon people not understanding and rejecting terms used by Arctic Village people and vice versa.

10. Despite these language and cultural differences, the Gwich'in people feel a sense of relatedness. From talking to elders such as Grandma Sarah Frank, I learned that long before contact with outsiders, the various Gwich'in bands would gather on a regular basis, often when the rivers would open up and travel was easier and food more plentiful. It was customary for the chiefs of the various bands to dip net salmon from canoes in displays of skill and dexterity; and that even the chiefs from a far away as Arctic Village would come down to the Yukon River for such gatherings. It was this historical tradition of the gathering of the Gwich'in bands which was revitalized with the June 1988 Gwich'in gathering in Arctic Village. People from all the Gwich'in Villages in Alaska and from as far away as Old Crow and Ft. MacPherson in Canada came to the gathering and continue to attend the subsequent gatherings which have been held, one in Venetie and another in Arctic Village, I believe.

11. It is my observation that Gwich'in from Fort Yukon or other neighboring Villages are more easily accepted into the communities of Arctic Village and Venetie than are outsiders such as myself or non-Gwich'in Native Americans.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF GIDEON JAMES

1. My name is Gideon James and I reside in Arctic Village, Alaska. I have lived there for most of my life. I was born in 1939. My parents were Ezias James of Birch Creek and Martha Tritt of Arctic Village. My father's parents were Birch Creek James and Agnes James and my mother's parents were Albert and Sarah Tritt. I had three brothers and five sisters, but two of my brothers and two of my sisters died.

2. My earliest years were spent in Fort Yukon, but we spent most of the years while I was growing up in the Sheenjik River area and around Arctic Village. The men would travel by boat from Fort Yukon to bring supplies to our camp and the women and children would walk to Sheenjik from Arctic Village. The trapping in the Sheenjik area is very good in the winter.

3. After spending the winter in the Sheenjik area we would walk back to Arctic Village during the spring to spend the summer and take caribou as they came through the area. At places within and outside the reservation we would set up muskrat trappings camps. Families would usually have the use of three or four lakes to use for trapping. We would also hunt and dry caribou and catch whitefish. Caribou cows and calves would usually be in our areas in July while the bulls would come through in late fall. The caribou seem to be more scattered now because of more human disturbances. We would also hunt moose in July and August and dry the meat. Sheep

are treated as a delicacy and receive special treatment. They are usually taken in early fall and saved for special occasions throughout the winter.

4. There were about nine cabins at the Sheenjik area. They belonged to Gilbert Joseph, Alice Peter, James Gilbert, David Francis, Steven Peter, Isaac, Albert and George Tritt and Ezias James.

5. This pattern of moving back and forth between Arctic Village and Sheenjik continued until about 1951. In that year our family went to Fort Yukon so we children could go to school. My mother thought there were too many bad influences in Fort Yukon so in about 1953 or 1954 we moved back to the sheenjik area and in about 1955 we went back to Arctic Village.

6. I filed for my Native allotment in the Sheenjik area. It is marked #14 on the Native allotment map, which is Exhibit #209. My sister Sarah James also has a Native allotment in this area. Hers is marked as #18 on that same map. My father Ezias James has a Native allotment at Old John Lake and my mother Martha James has hers on the Junjik River north of Arctic village, marked #17 on the Native allotment map; my brother Albert and sisters Lillian and Dorothy all have allotments near my mother's, marked #s 11, 16, and 20 respectively.

7. In 1956 there was a volunteer school teacher in Arctic Village, where we now stayed permanently. The teacher, Yolanda Rocker, recommended that the children be sent to Mt. Edgecumbe for schooling. I went there with my sister Lillian and graduated in 1961.

8. After graduation I went into the Army for three years; first in Texas and then in Florida during the Cuban missile crisis. I then went to a trade school in Chicago to study gas and diesel mechanics during 1964 and 1965. I worked at some apprenticeships for a few years in Chicago and San Francisco.

9. In 1970 my father died and all the children who were living outside of Alaska came home to Arctic Village. I have lived in Arctic Village ever since.

10. My permanent home is in Arctic Village, but I spend large amounts of time camping on my trapline in the winter months and out hunting. Many of the areas I use, such as Sheenjik, are located outside of the tribally owned reservation. Other tribal members who live in Arctic Village use areas within and outside the tribally owned lands. Our customs and traditional use patterns are known to all who live in the Village. There has never been a need to write these things down. Children are taught these things as they grow up.

11. Tribal members from Venetie often come up to Arctic Village to hunt, fish and visit. They borrow equipment if they need to for hunting or fishing and always leave something behind if they are successful. They are all aware of what is considered proper behavior and don't interfere with the existing rights of other members.

12. I was elected to the Arctic Village Council in 1971. Christian Tritt, who was the council chief, asked me to work on the land claims and to help explain what the options were. There was a lot of confusion in those days about how the land claims were going to be settled. I took the time to study the issues and visited with others from outside the reservation to discuss these things. I was at the Alaska Federation of Natives Convention in 1971 when President Nixon came over the loudspeaker to announce that he had signed the land claims bill.

13. After the land claims bill passed I took courses in map reading and about the land claims at the University of Alaska-Fairbanks in 1972. I travelled to Venetie and out to the traplines to give information to our members about the vote that was to take place in 1973. The vote was about whether to keep our reservation land, or to be

a part of the ANCSA corporate settlement. It was at this time that I began to get more involved with the IRA government in order to make sure that the tribe would get to keep the land. Robert Frank was the First Chief of the IRA government at that time.

13. The election on whether to keep the reservation land took place in 1973 and the vote was nearly unanimous in favor of keeping the land.

14. In the mid-1970s we gave all outsiders notice of the participation of both villages in the IRA government, which is known as the Native Village of Venetie Tribal Government. That notice is exhibit 82.

16. I helped organize a trip to Anchorage by the Boards of Directors of the Neets'aii Corporation and the Venetie Indian Corporation to meet the representatives of the Bureau of Land Management and the Regional Solicitor. Those two corporations were created as provided by ANCSA and jointly received the land that made up the Chandalar Reservation. The federal officials all said we were free to deed the land from the ANCSA Corporations back to the Tribal Government.

17. I have been on the Tribal Government council for about seventeen years and have been First Chief four different times for a total of about twelve years. I have also been a member of the Arctic Village Council several times. I am a member of the Arctic Village Council and Tribal Government Council now.

18. In addition to the Native Village of Venetie Tribal Government, which is also called the IRA Government, each village has a local council that handles village business. These village councils also enforce laws and rules adopted by the Tribal Government. For example, the Tribal Government sets landing fees for the village airports, but the local village councils collect the funds. The Tribal Government sets policies on land use and the relations with State and Federal government agencies re-

lated to lands. The Village Councils help carry these policies out. Money from landing fees is used for airport maintenance and land use fees are usually kept by the Tribal Government for administrative purposes. Land is very important to our tribe and no quick decisions are ever made about it. Last summer the Tribal Government interviewed contractors who wanted to get hired to improve some of our culvert system in Arctic Village. Because their presence and activity would affect the tribal members and the land, we made sure that they protected the environment and observed tribal rules respecting the ban on drug and alcohol use. They were also not allowed to hunt game. They were encouraged to follow our tribal member employment preference. In exchange for gravel needed for the project, we bartered for equipment used to conduct the repairs. In about 1984 the Native Village of Venetie Tribal Government also received a direct contract from the FAA to build a new airport at Arctic Village.

19. As First Chief of the Tribal Government I often participate in child custody cases that the State is involved in. These kind of matters are dealt with through meetings with the local council chiefs and the family members of the people involved with the cases. The Tribal Government deals with all matters affecting the land or the membership as a whole. Any actions that affect our children are considered very important and the Tribal Government gets involved.

20. The Village Councils take care of local matters, but the Tribal Government sometimes has to step in to back them up. Last year I had to go to Venetie to speak to the school children about how they should behave and respect the land. This was because the Village Council was having a hard time getting the children to behave. The same is true with the liquor ordinance. The Tribal Government prohibits it on all reservation lands, but the Village Councils enforce it. If the Village Councils

are having trouble with someone not following their orders, the Tribal Government will be asked to help.

21. There has never been a need to write our laws down or to write up descriptions of how we operate. But recently, more and more State government and federal government programs are causing us to do things more formally. We received a grant from the Administration for Native Americans (ANA) self-governance project in the amount of \$158,000 to interview our elders and write down traditional knowledge, customs and advice about how to preserve our land and tribe. We also plan to write down our traditional laws as part of our ANA project. The goal is to ensure future protection for our tribe and its membership and to make sure that our tribal government remains in control of all local matters. We also have been awarded a \$90,000 BIA technical assistance grant to pursue housing programs and obtain Tribal control over other services now provided by the Indian Health Service and other entities.

22. There are about 150 people living in Arctic Village, only about 4 or five of whom are non-Natives. There is an ANICA store and a privately owned store. Both carry some frozen meat, canned goods, and a small amount of food staples such as rice. Arctic Village has a community hall, a tribal office building for both the Tribal Government and village council, a washeteria, community freezer unit, and a post office. Electricity is provided by a generator. Gas costs about \$4.00 per gallon and fuel oil is about \$2.70 per gallon. Wood stoves are used for heating almost all buildings. There is no running water in the village except for the school and washeteria.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF SARAH JAMES

1. My name is Sarah James; I was born in 1944 in Fort Yukon, although my family lived primarily at Salmon Village on the Sheenjek River at the time I was born. This location is outside the Reservation boundary southeast of Arctic Village. During my childhood we also lived for periods of time in Fort Yukon and Arctic Village.

2. My father was Ezias James, originally from Birch Creek. He married Martha Tritt, daughter of Albert and Sarah Tritt of Arctic Village, and together they raised me and my brothers and sisters mostly in the Arctic Village and Salmon Village areas. My grandfather (my mother's father) was Albert Tritt, who started the church and a school in Arctic Village. My mother wanted to stay near where she grew up and make sure the Village kept going. She always told us that the land and our way of life was very important to her. Her parents arranged for her marriage to Ezias James; arranged marriages were the custom to avoid marriage to relatives that were too closely related. Parents' decisions in these matters were respected by their children.

3. During my growing up years, our family lived off the land hunting, fishing, trapping, gathering, and making whatever we needed. My mother sewed all of our clothes and my parents made snowshoes and toboggans. We lived in Fort Yukon for 3 years in the early 1950's where there was a school but some of the kids began to get in trouble

and my parents moved our family back to Salmon Village, also known as Sheenjek Village. There had been a whole village there in the 1930's and 1940's with about nine houses; these have gradually been eroded away by the river and gradually people moved to where there were schools. We were the last family to stop living at Salmon Village. I filed for my Native Allotment on the edge of a lake in the old Salmon Village area. It is marked #18 on the allotment map. My brother Gideon also has his Native Allotment in that area; it is marked #14.

4. We moved to Arctic Village in 1955 because they needed more students to start a permanent school in Arctic Village. That is also the year my grandfather Albert Tritt died. Before he died, I went fishing with him and helped him cut wood. This a custom of our people— younger persons like me would go out with grandpas and other elders to help them and also to learn. After my grandfather died, I spent more time with my grandmother and helped her. It was customary for children to be sent to live with their grandparents when they were about nine or ten years old so we could listen to their stories and learn about all of our relations and our history.

5. In the late 1950s I was sent away to BIA boarding schools at Wrangell, Alaska and Chemawa, Oregon. This is where I learned English. Before that we didn't speak English at home; my dad knew a little because he went to school up to third grade. My parents must have hated sending us away to boarding school but they really wanted us to get an education and to know about the law and how to protect ourselves and our land.

6. I graduated from high school in 1967 and signed up for the Bureau of Indian Affairs "relocation" program. I was sent to San Francisco where I was trained for clerical work and got a job with Blue Shield. My brother Albert was also in San Francisco; Gideon went to Chicago and Lillian was sent to Cleveland. Gideon came to San Fran-

cisco in 1970 and it was also in 1970 when news of my father's death reached us. We immediately went back to Arctic Village. That has been my home for all but two years since then, although I have traveled quite a bit in the past few years.

7. Immediately after our return to Arctic Village, we got involved in the village. Gideon and I went to a leadership workshop and I got a pre-school aide job. My son was born in 1973 and I lived in Fairbanks for a couple of years. After that I returned to Arctic Village and taught a high school class for one year, worked as a special education teacher's aide for three years, and then became the alternative village health aide. Eventually, I was the primary village health aide for about five years until 1985.

8. I always heard my parents talk about the Reservation and how we had to keep our land. In fact, protecting all the land we used was so important to my family that my parents sent my sister Nena down to San Francisco in early 1970 to get us to sign our applications for our Native allotments. My parents explained the allotments as the "border around us." My mother explained that I had lots of relatives in Venetie and sometimes I met them when they came up to Arctic Village to visit, hunt or spend the holidays. The people in Venetie are like the same family to us in Arctic Village and we try to stay close. In the older days, even when communication was very difficult, we always knew who was staying where. People were always on the move for food and survival.

9. As long as I can remember there was a village council in Arctic Village. The Village Council deals with village affairs such as kids causing problems and runs the generator and the washeteria. I was elected to the Arctic Village Council for one-year terms approximately three times in the period between 1970 and 1990.

10. In 1976 I was elected to the Tribal Council. The Tribal Council is made up of members from both Venetie

and Arctic Village and is also called the IRA Council or Tribal Government. The people in Venetie always vote for me to be on the Council. The Tribal Council deals with land issues like easements, management, land use, and with tribal membership. It occupies a higher position above the village councils. The Tribal Council also posted a tribal law prohibiting all alcohol on the reservation and limited churches to the Episcopal Church only. When outsiders want to come onto our land, the Tribal Council will decide whether to grant permission and will tell them to follow tribal law while on our land. I have been elected to the Tribal Council to serve a three-year term three different times. During this last election I did not run for re-election because I have had to travel so much and because I planned to stay in Fairbanks for medical reasons. However, in June, 1993, I moved back to Arctic Village to stay there.

11. For the past several years I have worked and traveled for my people to protect the calving grounds of the Porcupine Caribou herd. We are the Caribou People; without caribou we won't be a people. Seventy-five percent of our diet is wild meat and most of it comes from caribou. I have been speaking to church groups, Indian gatherings, tribal meetings, and college campus groups across the country and in Canada. I figure I am just carrying on the tradition of my grandfather Albert Tritt and my father and sister Nena; they always stood up for what they thought was right. It runs within the Tribe, generation to generation, I guess, to work to protect the land and the caribou so they will be passed on to the next generation.

12. As a Tribe we have to make a lot of sacrifices to exercise our rights without outside interference. We turn down outside support if it would jeopardize title to our land and sometimes this causes hardships. For instance, sometimes we can't get grants for new housing, road and

airstrip improvements and things like this if it would mean giving up title to our land. We also have to protect what is going on all around the borders of our land, not just the land inside the boundaries of the Reservation.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF ERNEST ERICK

1. My name is Ernest Erick and I reside in the Native Village of Venetie. I was born in 1956 in Fort Yukon and am 37 years old. My father is John O. Erick, Sr. and my mother is Maggie Roberts. My father's parents are Paul and Natalie Erick. My mother's parents are James Roberts and Myra Whiteye Roberts. My mother was born and raised in Venetie along with the remainder of her family. My father and his father, Paul Erick, are from Kahtsik, also known as Robert's Fish Camp.

2. The first seven years of my life were spent living between Robert's Fish Camp, Venetie and Fort Yukon. When I was seven years old we moved to Canyon Village, which is north of Fort Yukon on the Porcupine River. I lived there with my seven brothers and parents until 1965. We moved back to Fort Yukon where my mother died during childbirth. Then I moved to Venetie with my father and eleven children when I was about eight or nine years old.

3. Ever since I was about 10 years old I provided for myself and my younger brothers and sisters by gardening, hunting, picking berries, taking care of dogs and by hauling wood and water for our use. I was the fifth child in my family and learned how to do these things from my grandmother, my father, Chief David Henry, Donald Robert and Hamel Frank.

4. I went to a BIA school in Venetie until I was about sixteen years old and then to Mt. Edgecumbe for one year in 1973 and then back to Venetie for one year. I went then to Job Corps training program in Montana for a year to learn to operate heavy equipment. In 1975 I moved back to Venetie and worked for the Tribal Government in Venetie and Arctic Village and also earned money by selling wood and trapping. I worked on the North Slope from 1975-82 and made my home in either Arctic Village or Venetie. When in Arctic Village I spent much time with Moses Sam, who is a relative. I spent time hunting with John Titus, Trimble Gilbert and other people my age. In 1979 I moved back to Venetie; but continued to work on the North Slope.

5. I moved to Galena in about 1982 and lived there for about three years. When I was in Galena I went subsistence hunting with local people and taught them what I knew about hunting from my experience. In 1984 I moved back to Venetie to help the tribe and my family. I got married to my wife, Donna Becker, in 1983. While I was away I was in constant phone contact with my family and came back about three times a year to hunt caribou for my grandmother. I also spent a good deal of time visiting friends and relatives and attended a Tribal Government meeting where financial concerns and educational matters were discussed. I asked for and received a small loan from the Tribal Government so I could move back to Venetie.

6. I support my family by hunting, fishing and trapping. My trapping takes place in the area of Robert's Fish Camp and also northwest of Venetie in areas that are not being used by other tribal members for trapping. I usually earn some cash by working at construction and as a heavy equipment operator. Jobs in the village are usually given out first to qualified tribal members and then to others who live in the village. These matters are usually decided at community meetings.

7. A typical day's activities include hauling water from the river, cutting wood for heat and cooking, fishing, trapping, or hunting, depending on the season. The addition of an electrical generator and other modern conveniences have changed the way we live in some ways, but traditional law and custom still define the way we live and behave. Other tribal members generally support themselves in the same way. Hunting parties of several people will go out in search of game and camp for several days and wait for the arrival of caribou. When to begin hunting is usually decided by the First Chief and the elders in the community. If the hunt is successful, the meat is distributed to family members, elders and other tribal members. The traditional sharing network takes special care of elders, single mothers and those who for some reason are not able to hunt for themselves. There are areas near Venetie that I use for cutting wood. Since my father is from Robert's Fish Camp, I have decided to build a cabin there for my family's use.

8. I do not have a Native allotment in my own name because I was too young to file for one before the Native allotment act was repealed in 1971. I have inherited a share of my father John Erick, Sr.'s Native allotment which is at Fish Camp (Kahtsik) and is marked #72 on the Native allotment map. My sister Vera also has a Native allotment in that area, marked at #74.

9. There is a village council in both Venetie and Arctic Village. I have served on the Venetie Village Council since 1985 and am still a member of the Council. I was the First Chief of the Village Council in 1990-91. I also served as a member of the Native Village of Venetie Tribal Government from 1987 until 1993. I was the First Chief of the Tribal Government from 1987-90. The Tribal Government meets about four times a year, but this depends on whether there is serious business that needs to be considered. Once a year there is an annual meeting where the tribal members from both villages gather.

10. The Tribal Government usually makes the laws and the village councils enforce them on a daily basis. Almost all of our law is traditional, but the minutes of the 1962 Common Council meeting have a number of our customary laws written down. Village councils also pass resolutions at times. The village councils go to the First or Second Chiefs about problems.

11. The Tribal Government makes all the rules governing control and use of the land. This includes dealing with trespassers and non-members who want to hunt or hike within the reservation. The Tribal Government also deals with adoptions. We call ourselves the Neets'aaii Athabaskan Gwich'in and we alone govern the people, animals, land and water within the former reservation.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF EDDIE FRANK

1. My name is Eddie Frank and I live in the Native Village of Venetie. I am a member of the Native Village of Venetie Tribal Government. I was born in Fort Yukon in 1949. My mother is an Aleut who grew up in the Valdez/Cordova area. She was married to John Fredson until he passed away and then she married my father. My father is Dan Frank who stayed in the Venetie area and especially spent time at "Gold Camp," which is west of the reservation boundary.

2. My mother taught school in Beaver for a year and then our family moved back to Fort Yukon, where we lived until I was 10 years old. In 1960 our family moved to Chalkyitsik where my mother taught school. In 1965 our family moved to Kotzebue where my mother taught school until 1972.

3. I attended high school in both Kotzebue and Unalakleet, completing my senior year at Unalakleet. After high school, I spent a year at Sheldon Jackson in Sitka. After Sheldon Jackson, I spent three months in New Mexico attending Southwestern Indian Polytechnical Institute. I returned to Alaska in June of 1972 and entered the University of Alaska-Fairbanks that same fall.

4. In the spring of 1973 I married an Eskimo woman and settled in Kotzebue, where I worked for as the fiscal manager for the Manilaaq Association until 1980.

5. I was originally enrolled as a Fort Yukon shareholder under the Alaska Native Claims Settlement Act,

but in 1973, after talking to Robert Frank, Sr., I appealed my enrollment to change it to Venetie, which was granted.

6. My wife and I have 4 children. All the children were automatically enrolled as members of the Native Village of Venetie Tribal Government.

7. While living in Kotzebue I made a trip in March of 1980 to visit my father and realized that Venetie was a good place to live. There was no problem with alcohol as there was in Kotzebue and in many other places. I talked my wife into moving to Venetie and we returned to take part in the good life that you can have there.

8. In the years since I returned to Venetie I have been a council member on the Native Village of Venetie Tribal Government and have served on the Venetie Village Council as First Chief, as well as a council member. Upon my return I was appointed to a position on the Venetie Indian Corporation Board of Directors, which had been established under ANCSA. The corporation had received the legal title to the reservation in common with Neets'aaii Corporation. Both corporations transferred their interests to the Native Village of Venetie Tribal Government in the late 1970s. The Venetie Indian Corporation is no longer in existence.

9. There are approximately 200 people who currently reside in Venetie. There are only about 10 non-Natives who live here and they are all school teachers. There is one store in the village and it sells basic food supply staples such as canned goods, rice, candy, some clothing, ammunition and frozen meat. In general the prices are about two and a half times as expensive as in Fairbanks and can be even more depending on the product. There is a washeteria for community use that has indoor plumbing and running water for showers and clothes washing. The only other indoor plumbing in Venetie is in the school facility. There is an Indian Health Service Clinic, a post office and an Episcopal church in Venetie as well. There

is also a building that houses the Tribal Government offices and the village council offices; a community hall where we have public meetings, dances, potlatches and any other large gatherings. Most people get by through hunting, fishing, and trapping, although the trapping business has been down lately due to low prices. There is some seasonal work available such as fire fighting or construction work if there is project of some sort being built. Tribal members from Arctic Village often visit and this is especially so during the Thanksgiving and Christmas holidays, the Fourth of July celebration and the Spring Carnival.

10. Ever since I have lived in Venetie I have known of the governmental structure. The local system of government includes local village councils in both Venetie and Arctic Village. They are known as the Venetie Village Council and the Arctic Village Council. The local village councils are elected by Tribal members who reside in the village. Ballots for the elections are given by the election board only to tribal members entitled to vote in the respective elections.

12. The Native Village of Venetie Tribal Government is organized under the Indian Reorganization Act. It has nine members who serve for three year terms. There is a First Chief and a Second Chief. Only members of the Tribal Government can vote in the Tribal Government elections, but the members do not have to reside in either village. In the past, we have designated individuals to collect votes from members who reside in Fort Yukon or Fairbanks.

13. The division of authority between the village councils and the Tribal Government can not always be stated in specific terms, but it is based on historic practices and the common understanding of tribal members and the various council members. For example, the Tribal Government has the responsibility of dealing with outsiders and all matters related to the land. Tribal Government

approval is required for companies that want to do business on the reservation. It also deals with any matters that are of concern to all the tribal members. One example would be the prohibition on the consumption or importation of alcohol. The Tribal Government has adopted the prohibition and the local village councils enforce prohibition.

14. Natives from other communities may be allowed to set up residence in Venetie, but that requires the approval of the Tribal Government. The same is true with respect to non-Natives who may wish to move to the reservation. I believe the Tribal Government has taxing power and the authority to make all land use decisions such as leasing, or providing permits for access.

15. Child custody matters are referred to the Tribal Government if the State Division of Family and Youth Services involved. The village councils are also very interested and involved in child custody matters. The village councils also deal with family counseling matters and the Tribal Government also sometimes engages in family counseling and urging individuals to engage in proper behavior.

16. The Village Councils deal with day-to-day issues in the village like misbehavior by children and enforcement of the drug and alcohol prohibitions. People who violate the alcohol prohibition are required to meet with the village council and at that point a decision is made to fine the individual, or to ban him or her from the village for a time. Those suspected of vandalizing property are also required to meet with the council. If they are children, the parents are brought in too. The usual action is a little lecture from the council members.

17. The Village Councils and the Tribal Government act as courts. The division of authority depends on the kind of matter to be considered. Strictly local matters are dealt with by the Village Councils and things of broader concern are reviewed by the Tribal Government.

**IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA**

(Title Omitted)

NARRATIVE TESTIMONY OF ROBERT CHILDERS

1. My name is Robert Childers and I have been a public policy consultant in Alaska since 1974. I have lived in Alaska since 1972 and spent a substantial amount of time in rural Alaska. I came here after taking my BA in Environmental Studies with an emphasis on economics at UC Santa Cruz. I am 46 years old.

2. The focus of my work in Alaska has been related to ensuring local community involvement in State, National and International decision-making that affects local communities and their resources. Much of my work in the 1970s involved preparation for the D-2 planning process. In general, that process involved the identification of lands that were to be proposed for inclusion in the federal conservation unit system as a result of the passage of the Alaska Native Claims Settlement Act. I first worked with the Federal-State Land Use Planning Commission on various mapping projects involving the Arctic areas of the state.

3. In the late 1970s I traveled to Fort Yukon in my capacity as a contractor for the Rural Community Action Program (RuralCAP). My task was to work with Gwich'in Villages regarding the planning for the Arctic National Wildlife Refuge. It was during that process that I first made contact with representatives of Arctic Village and Venetie. It was during the process of developing the legislation that eventually became the Alaska National Interest Lands Conservation Act (ANILCA) that I first

became aware of the unique governmental structure and land status at Venetie and Arctic Village.

4. After the passage of ANILCA, I began to work with the Gwich'in villages on issues involving an international agreement for the management of the Porcupine Caribou herd. As a result of several years of negotiations, the United States and Canada signed the U.S. Canada Agreement on the Conservation of the Porcupine Caribou Herd. That Agreement established the International Porcupine Caribou Board, which is composed of eight members, with four from each country. I was the lead staff person participating at the direction of the Gwich'in villages. The object of the negotiations was to ensure that management of the herd would benefit the health of the herd and accordingly, the well-being of the Gwich'in people.

5. Since my initial visit to Venetie I have traveled to Arctic Village or Venetie approximately 40 or 50 times and have become very familiar with the political structure of the communities. I have gained this familiarity because it has sometimes been necessary for the Tribal government to take formal positions on various policy matters. Such decisions, in my experience, have only been made by the Tribal Government; the local village councils do not speak for the entire tribe on matters that I am familiar with. For example, a critical decision had to be made about the status of lands that would become part of the Arctic National Wildlife Refuge. In the other Gwich'in villages positions were typically made after community meetings set up by the tribal government for that community. With respect to Arctic Village and Venetie, however, important decisions were made by the Native Village of Venetie Tribal Government, which is the governing body of the entire former Chandalar Reservation and includes representatives from both Venetie and Arctic Village. It was that entity that made the decision respect-

ing the ANWR issue and it is the Tribal Government that formally spoke for the Tribe in the Porcupine Treaty negotiations.

6. Since the mid-1980s I have been working with Gwich'in villages as a consultant on a project designed to establish a border-crossing agreement between the United States and Canada for the benefit of Gwich'in and other indigenous people. Venetie and Arctic Village speak through their Tribal Government as part of the Alaska Porcupine Caribou Commission, which is the Alaska organization formed to deal with the ongoing domestic issues affecting the herd.

7. I have not only traveled to Venetie and Arctic Village frequently, I have also been to Fort Yukon on numerous occasions and have been to the Gwich'in communities of Chalkyitsik, Beaver, and in Canada at Old Crow, Ft. McPherson, Arctic Red River, and Aklavik. In my view, the people of Arctic Village and Venetie are clearly viewed as a distinct tribal group, the Neets'aai Gwich'in, and are governed by the Native Village of Venetie Tribal Government. Each village has a local council that deals with local matters, but which is subject to the overarching authority of the Tribal Government. The Tribal Government exercises complete control over the former Chandalar Reservation. It is the undisputed owner of the land and carefully regulates all use of the land. I have seen no evidence of any other government exercising jurisdiction over the land owned by the Tribal Government, without the express consent of the Tribal Government.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF
CLARENCE ALEXANDER

1. My name is Clarence Alexander and I am a 54 year old resident of Fort Yukon, Alaska. I am Gwich'in Athabaskan and belong to the Yukon Flats band of the Gwich'in. I grew up at a place known as "Alexanders' Village" which is near the southeastern border of the Venetie Indian Reservation. It was not really a village, but instead was a place where several families had cabins to use as a base for hunting, fishing and trapping. I spent the first twenty years of my life in that area, living a traditional lifestyle. The area was especially good for whitefish fishing and we would trade dried fish to the people of Venetie and Arctic Village for dried caribou.

2. In about 1960 I moved to the lower 48 states for education and employment. I attended technical school in Chicago to become a master machinist. I spent some time working in San Francisco and also moved back and forth to Alaska. In Alaska during the 60s, I was also worked for the Alaska Railroad and the State highway department as a surveyor's helper. In the 1970s I primarily worked in Fort Yukon as a bilingual program coordinator and language instructor. For the past ten years I have worked for the State subsistence division as community resource specialist. My job is to gather information regarding subsistence harvests and use by local residents.

3. From 1980 to 1993 I was the First Chief of the Native Village of Fort Yukon, which is a tribal govern-

ment organized under the provisions of the Indian Reorganization Act. It is the recognized tribal government for Fort Yukon. During that time I was part of an effort that resulted in the establishment of the Council of Athabaskan Tribal Governments (CATG). That organization was formed to promote economic development among the Athabaskan villages located in the Yukon Flats and surrounding area. Participation is strictly voluntary, on a village by village basis. I was the first Chairman of the CATG and was recently asked to remain Chairman.

4. Because of my role as Fort Yukon's First Chief and my experience growing up near the Venetie Reservation, I am familiar with their political organization and with the use of the territory within the reservation and the surrounding area. It is my understanding that the people of Arctic Village and Venetie are united under one government that is called the Native Village of Venetie Tribal Government. That government deals with all matters related to land use and any matters affecting the tribe as a whole. Each village also has a local village council which handles local matters, but is under the authority of the Tribal Government. Of all the Athabaskan communities in the area, these are the only two who are organized under a unified tribal government over two communities. The Tribal Government exercises control over the entire land base which it owns.

5. The Tribal government has one of the only effective alcohol prohibitions in place that I know of. It is well known that alcohol and drugs are prohibited within the reservation boundaries and that people suspected of bringing those substances into the communities will be searched at the airport. I witnessed such a search myself on one of my trips to Venetie. It is well known that violators of the ban may receive a "blue ticket," which is a banishment from the community for a period of time.

6. The Native Village of Fort Yukon and other tribal governments in the region acknowledge the Native Village

of Venetic Tribal Government as the governing body of the entire land area that makes up the former Venetic Indian Reservation. Individuals who are not members of the Native Village of Venetic Tribal Government may use reservation lands, but only with the permission of the Tribal Government.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF JEFF WELTZIN

Jeff Weltzin will testify as to the contents of the letter marked as Plaintiffs' Exhibit # 152.

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF ALASKA

(Title Omitted)

NARRATIVE TESTIMONY OF
MICHAEL STANCAMPANO

1. My name is Michael Stancampiano and I am currently employed by the Bureau of Indian Affairs as a tribal operations officer for the Ute Mountain Ute Agency in Toawac, Colorado.

2. I graduated from the University of Oklahoma in 1968 and from the University of Oklahoma Law School in 1974. I served in Vietnam after I was drafted in 1969. I was assigned to the Army Intelligence division where my job was interrogating prisoners of war.

3. I practiced law in Oklahoma for several years as a sole practitioner and for the Cherokee Nation in eastern Oklahoma. I also worked for both the State of Oklahoma and for the Legal Services Corporation.

4. In 1981 I moved to Juneau, Alaska and began working for the Juneau Area Office of the Bureau of Indian Affairs. The BIA has three general levels. The Central Office in Washington, D.C. is responsible for the administration of all BIA programs and functions on a nation-wide basis. It is headed by the Assistant Secretary for Indian Affairs. Beneath the Central Office are twelve Area Offices which are headed by Area Directors and carry out programs and policies in large geographic regions. Next in line are the Agency Offices, which are headed by Superintendents. The Agency Offices provide

direct services to tribes. In Alaska the Area Office is located in Juneau and Agency Offices are in Fairbanks, Bethel, Nome and Anchorage.

5. I worked in the realty section of the BIA for a short time and then worked in the tribal operations division for a time. The tribal operations division is responsible for assisting tribal governments in development of their court systems, works with tribes that wish to amend their constitutions, or draft constitutions for the first time. It assists in the development of tribal membership ordinances and distributes judgment funds, conducts secretarial elections, reviews tribal-agency contracts, prepares certifications of Indian blood and maintains files on tribal governments.

6. In 1985 I moved to Fairbanks to work in the Agency Office. I became the Agency Superintendent in 1986. I was thus responsible for the administration of all BIA programs in the Interior and North Slope regions of Alaska. Of course, many of the programs have been contracted out to the tribes pursuant to the provisions of the Indian Self-Determination Act. My staff, when I left in 1992, consisted of about 17 full time employees.

7. I became familiar with the organization of all tribes in the Interior region and worked with them in the delivery of BIA services.

8. I travelled to the communities of Arctic Village and Venetie on the former Chandalar Reservation on a number of occasions. There were three entities with which the Fairbanks Agency had dealings on a government to government basis. First was the Native Village of Venetie Tribal Government, which is sometimes known as the "Native Village of Venetie," or the "IRA Government." It is reorganized under the provisions of the Indian Reorganization Act and holds legal title to the entire former Chandalar Reservation. I understand that the land was transferred to the Native Village of Venetie Tribal Government

by the two Native corporations that were established pursuant to the Alaska Native Claims Settlement Act. This governing body represents everyone who resides on the former Chandalar Reservation and is composed of representatives from both Venetie and Arctic Village.

9. Each village also has a local governing body. They are known as the Venetie Village Council and Arctic Village Council. They operate as arms of the Native Village of Venetie Tribal Government. As such they were considered eligible for services from the BIA and the Fairbanks Agency Office did in fact enter into contracts and grants directly with the village councils as well as the Native Village of Venetie Tribal Government.

10. The tribal members within the former Chandalar Reservation have adapted their form of government over the years to respond to changing conditions. The local village councils effectively deal with strictly local matters while the Native Village of Venetie Tribal Government represents the entire tribal membership and governs the former reservation as a whole. The latter government deals with outsiders who wish to enter the reservation for business or other purposes.

11. Arctic Village and Venetie are distinctly Native communities. They do not have any other form of local government in their communities other than the local village councils and the Native Village of Venetie Tribal Government. I consider their system of government successful.

[Filed Feb. 22, 1995]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

No. F86-0075 Civ (HRH)

(Title Omitted)

JUDGMENT

The court having issued its decision in this case on the question of tribal status of the Neets'aii Gwich'in on December 23, 1994, in the consolidated cases of Native Village of Venetie IRA Council, *et. al* v. State of Alaska, *et. al*, F86-0075 Civ., and State of Alaska v. Native Village of Venetie Tribal Government, *et. al*, F87-0051 Civ.,

IT IS THEREFORE DECREED that the Neets'aii Gwich'in are a sovereign Indian tribe as a matter of federal common law; and

IT IS FURTHER ORDERED that the State of Alaska shall give full faith and credit to adoption decrees issued by the tribal courts of the Neets'aii Gwich'in tribe, including the adoption decree issued in favor of Nancy Joseph, to the same extent as the State of Alaska gives full faith and credit to the adoption decrees of any other entity.

Dated this 20 day of Feb., 1995.

/s/ H. Russel Holland
H. RUSSEL HOLLAND
United States District Judge

[Filed Jan. 30, 1996]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

No. F86-0075 Civ (HRH)
(Title Omitted)

FINAL JUDGMENT

The court having issued a Judgment on the question of the tribal status of the Neets'aii Gwich'in on February 22, 1995, and having issued its decision on the tribal status of the Native Village of Fort Yukon on September 20, 1995, as clarified in its Order (Motions for Reconsideration) of December 12, 1995, and the parties having stipulated that the Native Village of Fort Yukon IRA Council would produce at trial sufficient evidence to satisfy the common law tests for tribal status and to the entry of a final judgment resolving the plaintiffs' claims,

IT IS THEREFORE DECREED that the Native Village of Fort Yukon is a sovereign Indian tribe pursuant to the Secretary of the Interior's October 21, 1993, published list of federally recognized tribes and as a matter of federal common law; and

IT IS FURTHER ORDERED that the State of Alaska shall give full faith and credit to adoption decrees issued by the tribal courts of the Neets'aii Gwich'in and of the Native Village of Fort Yukon, including the adoption decrees issued in favor of Nancy Joseph and Margaret Solomon, to the same extent as the State of Alaska gives full faith and credit to the adoption decrees of any other entity.

Dated this 20 day of Jan., 1996.

/s/ **H. Russel Holland**
H. RUSSEL HOLLAND
United States District Judge

[Exhibit 6]

**OFFICE OF INDIAN AFFAIRS
FIELD SERVICE**

Chandalar, Alaska.
Written at Fort Yukon, Alaska.
Jan. 1st. 1938.

RESVERATION

If the Chandalar school is to be permanent, in our opinion, the first big step is to put that section of the country under resveration.

There is no trader there now.

The people want the resveration. And they realize that the time has come when such action is necessary to protect their fur and game.

Please note the petitions attached. This is the story. The planes are rapidly changing the methods of trapping. Two of the residents took a plane this fall and in a short time came back with one hundred marten. How long can this keep up?

We suggest that a section of the Chandalar country be made into a resveration for the Natives. Attached is a map. Also the possible boundaries.

John Fredson

Please forward to Mr. Hirst.

[Map Omitted in Printing]

RETYPEDE

[Exhibit 9]

Mr. John Fredson,
U.S. Government Teacher,
Chandalar, Alaska.

Dear Mr. Fredson:

In discussing with Mr. Engerty the matter of preparing a justification for a reservation for Chandalar natives it occurs to me that additional information entered on the enclosed map would be quite helpful. You may use this map as a working copy and I will prepare a finished copy to be submitted with the final report, thus saving you valuable time in the field. Please make all entries on the map in pencil, keeping them as legible as possible and supplementing them with explanatory information on a separate sheet. Any information you can furnish in addition to that suggested in this letter will no doubt be very helpful.

BOUNDARIES: In view of the fact that the land is unsurveyed, it will be necessary to describe the boundaries of the reservation by metes and bounds. The boundary should include approximately the area over which the Chandalar natives have exclusive trapping rights and should avoid including any area which would give rise to contention between the chandalar natives and the natives of neighboring communities. The following statement of boundaries is purely tentative and is suggested for what help it may be to you in describing boundaries of the reservation as you believe they should be.

SUGGESTED BOUNDARIES: Beginning at a point on the main stream of the Chandalar River where the Christian River enters the Chandalar and proceeding in a general northwesterly direction following the meanders of the Chandalar River to the point where the Middle Fork

Juneau, Alaska.
June 17, 1929

of the Chandalar enters the main stream; thence in a general northwesterly direction following the meanders of the Middle Fork to the 68th Parallel cuts across the watershed of the Christian River, thence in a general southerly direction following the meanders of the Christian River to the point of beginning.

I have in mind that establishing the eastern boundary of the reservation at the Christian River might have the affect of preventing some trader or other person from establishing a post and selling liquor within a very short distance of the village. If there is some other stream or distinct natural boundary at some point between Christian River and the East Fork of the Chandalar River, it might be advisable to use it as the eastern boundary of the proposed reserve. We, of course, do not want to ask for any more land to be reserved than we can actually use, but we do want to keep the boundaries far enough from the village to give us some reasonable control over the sale of liquor. If you have such a boundary in mind, please indicate it on the map and give us additional explanation.

LOCATION OF VILLAGES AND FISH CAMPS: You will note on the enclosed map that Chandalar is located quite close to the Christian River. It seems to me that it is nearer the south of the East Fork. You and Jimmy Roberts and the others will be able to give its location more accurately. In addition to indicating the location of Chandalar Village you should show the site of the following:

All trapping cabins, camps and trails.

Approximate location of trap lines.

Place where Chandalar people hunt of caribou, sheep and moose.

Fish camps.

Muskrat lakes.

Indicate in parenthesis at the site of each village or camp the total resident population of the village.

COMMUNICATION AND TRANSPORTATION: In addition to information already on the map and other entries that you will make, you should show the following:

Dog team trails.

Shelter cabins for travelers.

Boat landings and sites where freight can easily be unloaded from river boats.

You should also indicate the nearest place where the White Pass and Yukon or other commercial navigation companies operate their regular steamers. Also the nearest postoffice and any amateur radio stations that are in operation within the proposed area or in immediately adjoining territory.

USE OF LAND AND RESERVES BY WHITE OCCUPANTS: Attached is a copy of the Reserve Act on which I have indicated in red the provisions applying to any claims to the use of unreserved land which may now be in effect. You may have occasion to refer to this if local people get concerned about the effect of a reserve on interests they already have established.

On your map you should also indicate the following:

Location of trading posts.

(This should show the little store which Jimmy Roberts operates and indicate that it is managed by a native.) If Jimmy is subsidized by the Northern Commercial Company or some other Fort Yukon trader, this should be explained.)

Location of mines now in operation.

Location of timber claims and wood cutting.

Routes of operation of freight or passenger boats owned by whites.

Any other white use or occupancy.

We realize that the information requested here will require much time and labor in its preparation. However, we feel sure that you agree with us that the establishment of a

reservation is fundamental to the economic welfare of those people. We, in turn, do not wish to submit a request for a reserve that is not adequately supported by full and complete data. Therefore, we are relying upon you to get this information in our hands in as complete a form as possible and at an early date so that it may get submitted to the secretary of the Interior.

I am sending back to you certain population data and rough maps which you and Jimmy were kind enough to supply for my information over a year ago. It occurs to me that these might be useful to you in filling in the large map we are forwarding. I would appreciate having those materials returned to me with the large map when you have finished with them.

Very sincerely,

GEORGE A. DALE,
Assoc. Super. Elem. Educ.

Enc.
GAD:MB

Alaska
DET

Apr. 7, 1938

Mr. John Fredson,
Teacher, Indian Service School, Chandalar,
via Fort Yukon, Alaska.

Dear Mr. Fredson:

At a recent conference in this office consideration was given to the setting up of a reservation for the benefit of the natives in the vicinity of Chandalar, as outlined in your recent communication on this subject. Mr. Hirst, who has been in Washington for some weeks, was present at this conference.

In the setting up of reservations for the benefit of the natives of Alaska the customary procedure is for the natives, with the assistance of the local teacher, to prepare a petition asking that the reservation be made for their benefit, which petition should set forth in detail the need for the reservation and be signed by as many of the adult Indians as are in favor of the petition. This should be forwarded by the teacher to this Office, through Mr. Hirst, at Juneau. The procedure and the kind of information required are set forth in the enclosed mimeographed circular entitled "Instructions for Organization in Alaska under the Reorganization Act of June 18, 1934 (48 Stat. 984), and the Alaska Act of May 1, 1936 (49 Stat. 1250), and its Amendments thereto." It is possible for the natives to secure a reservation for their benefit without being organized.

Please study the enclosed instructions and explain them to the Indians at Chandalar. If the Indians have any form of local organization they should prepare a petition for the setting up of a reservation, which should be signed by the officers and all adult Indians in favor of a reservation. It is suggested that you assist them to the fullest extent possible and transmit the required information and peti-

tion to Mr. Hirst, at Juneau. Mr. Hirst hopes to be able to visit Chandalar during the spring or early summer and will take up this matter further with you. However, you should not wait for his visit before proceeding with the petition and the forwarding [illegible words deleted] that you communicate with the Juneau office, by radio if possible.

Sincerely yours,

WILLIAM ZIMMERMAN, JR.
Assistant Commissioner.

cc-Juneau office.

cc-Mrs. Charlotte T. Westwood,
Solicitors' Office,
Interior Department.

Enclosure 1347095.

[Exhibit 10]

Chandalar
P.O. Fort Yukon, Alaska

July 12, 1938

Written at
Fort Yukon.

Mr. William Zimmerman,
Assistant Commissioner Of Indian Affairs,
Washington, D.C.

Dear Mr. Zimmerman:

Your letter of April 7th, with the enclosure number 1347095 came sometime ago. Thank you very much. The letter and the enclosure has to do with the setting up of a reservation for the benefit of the natives in the vicinity of Chandalar.

I have been working on the reservation since the instructions came, but I see that it will take time. I wrote a letter over to Arctic Village but it is difficult because no one reads or writes English over there. And since these people are forced to fight for their next meal from the open country, it is not easy to get them together at once. The people of Arctic Village answered my letter in native and stated that though they like to do what is best for their land, they cannot sign as they do not know the meaning of "Reservation." This fair enough. Those I have spoken to in person thoroughly approve the idea. But it will take time as I said.

Sincerely,

/s/ John Fredson,
JOHN FREDSON

[Exhibit 11]

Juneau, Alaska
October 18, 1938

Memorandum to Mr. Hagerty:

As a result of the conference with the Assistant Commissioner, attended by Superintendent Hirst and yourself at which Mr. Zimmerman expressed the opinion that the Constitutions and Charters being used in Alaska were too complicated and that we might suggest simpler and shorter instruments for use, especially by the extremely primitive people of the west and north, and in view of the opinions contained in letter from the Secretary's Office Dated September 17, 1938, I have drawn up a sample constitution, by-laws and charter which I think would be more satisfactory.

To utilize existing procedure as much as possible, the documents follow in abbreviated form the instruments approved by Washington. Simpler words have been substituted in many cases (restrict, pending, ratified, prescribed, promote, referendum, respective, eligible, etc. have been eliminated). Other synonyms than those I have used may be more appropriate. The easiest words to translate should be used. Titles and petitions have been eliminated and many sections have been generalized. For instance, in the by-laws instead of detailing the duties of the Secretary and Treasurer I have summarized them, assuming that if more detailed instruction is necessary the Council will give such verbal or written orders under authority conferred on it by Sections 2, 3 and 4. Also in the charter I have eliminated much detail in the powers of the corporation, summarizing these in a three-line section numbered 5. Possibly additional blanket clauses could be used to further shorten or simplify the instruments which have been examined quite informally by an attorney, and from a legal viewpoint are probably fairly satisfactory.

You are aware that many of the native villages now have a very informal method of conducting community affairs.

Some villages have chiefs selected in one way or another; some villages have groups of "hand-men" who conduct community business. I do not think it wise to try and substitute what to us may appear to be a lack of system by too much system, but rather make the informality formal, adding thereto just as much as may be absolutely necessary for the present. It appears superfluous for instance, to provide that resigning members shall submit formal written resignations. This procedure would probably not be followed even if the simple villager could write and if paper and ink were available. In many villages they are not. Therefore it is needless to include such a provision in an Eskimo, Aleut or Interior Indian constitution.

I did not think it necessary to include the "Order of Business" and some other provisions which extend the length of the by-laws, add to the difficulties of the interpreter and to the confusion in the minds of primitive people, or at least many of them. The villagers will be coached by the teacher and procedure and simple rules adopted by the council who will not likely use Robert's Rules of Order as provided, because unavailable and unintelligible.

Mr. Hawkesworth examined the documents attached, made some suggestions and concluded that the instruments would be satisfactory. Using them as a basis may be of assistance in making further revisions of existing documents if you think necessary, and the resulting instruments submitted to Mr. Hirst for his approval. Whatever forms are submitted to Washington should be more suited to Alaska than those in present use. They should be short, worded in the simplest language, so as to be understandable, at least in part, by natives with some knowledge of English, and which can be readily translated into the native languages, dialects and idioms, by the class of interpreters available. Interpreters must be used in all the western and northern Alaska villages and I have had to use

several who did not know equivalents for some of the words and phrases in documents now being used, and therefore could not translate the sense of parts of the instruments, so as to be intelligible to the extremely primitive people.

Reference in the 4th paragraph of letters from the Secretary's Office to "reflecting more faithfully the customs and usages of the groups" is noted. If such are to be referred to then the particular custom or usage should be mentioned specifically because some Alaska native customs and usages are repugnant to law (in matters of inheritance for instance), and many are not in harmony with programs for business, sanitation, health, etc. However, in the bylaws it is provided that the business of the council shall be conducted according to "local customs or suitable rules to be adopted" and in the charter for the Council "to do such other things as may be necessary in the conduct of its business, which are not contrary to law and regulations." This gives authority within prescribed limits for utilization of local established customs and procedure, and I think complies, at least in part, with the Secretary's intent. I am thoroughly in agreement with this paragraph of his letter, always have been, and long ago expressed the opinion that we should build up from the customs and capacity of the Indians instead of imposing entirely new procedure upon them which often is beyond their ability to comprehend or to comply with. (See statement of policy by Mr. Collier, Circular 3011 in this connection.)

There are a number of villages where, in addition to the school establishment, there will be a trader or two, maybe church, a few intelligent natives, some with a fair knowledge of English, etc., where a more detailed constitution and charter might be usable. However, it is believed that the simplest basic forms should be approved and be available for general use. Forms should be applicable to the village of Tucbuc, consisting of 18 houses (really miserable shacks) occupied by some 90 people, in which village

there is no school, store, church, no modern conveniences of any kind whatever, to which the very pen and ink would have to be taken to sign a petition for a charter in which probably not ten of the people can understand English. Umnak and Atka where organization is needed are villages similar to Tucbuc but more fortunate in having resident government representatives.

In conclusion, what I would prefer to see done would be for authority to be extended to the General Superintendent or the Organization Field Agent, to draw up simple constitutions, by-laws and charters on the ground in consultation with the native people. This would involve ascertaining from the Washington Office what powers, procedure, etc. would be considered necessary and what powers, procedure, etc. might be considered as optional and included in or left out of instruments. Then have meetings with several communities where some sort of native community government now exists and industrial activity is carried on. Flim for instance has a mayor, council, marshal, etc. Unalakleet and Kwikluk have memberships in reindeer associations.

Have such groups state their method or the method they would like adopted to select members, create a council, remove officers and members, etc. Then when we would have several of those native proposed constitutions, charters, etc. make a consolidated resume of all and submit to Washington for approval. I believe this would be more truly democratic government of the natives and conduct of business according to their own methods and capacity to manage, then procedure which may be designed elsewhere and without native participation. Build up in the field from the native basis, however primitive it may be, rather than down from an elaborate structure devised elsewhere.

P. J. FITZSIMMONS,
Credit Agent.

[Exhibit 17]

RETYPED COPY OF LETTER

Juneau, Alaska
January 25, 1940

Commissioner of Indian Affairs
Washington, D.C.

Attention: Mr. William Zimmerman, Jr.

Dear Sir:

Transmitted herewith are two copies of an application for reserve of certain lands for the use of the natives living in Venetie, Alaska and the neighboring communities of Arctic Village, Christian Village and Robert's Fish Camp. Although these villages are some distance apart the people are from closely inter-related families and use in common the game, fur and fish which are the chief resources of the area. The area requested for them is described as follows:

Beginning at the center of the upper mouth of the Chandalar River at the point where it enters the main channel of the Yukon River (known locally as Venetie Landing) and following the center of the main channel meanders of the Chandalar River in a general north-westerly direction to the mouth of East Fork of the Chandalar River; thence following center of the channel meanders of the East Fork in a general north and east direction to the intersection of East Fork with Tritt Creek (known locally as Vunye-cha-jik); thence east and north following mid-channel meanders of Tritt Creek to its intersection with 145° 30' West longitude (a point approximately 12 miles east and 2 miles north of Arctic Village); thence due south following 145° 30' West longitude to intersection with Otter Creek (a point approximately 6 miles northeast of Simon's Cabin); thence west and south

to Christian River; thence in general southerly direction following midstream meanders of Christian River to point of intersection with Cutoff Slough; thence south and east to back Yukon slough; thence west to main channel of Yukon River; thence following northern bank downstream in westerly direction to Venetie landing and point of beginning.

The native Indians of this region have always been self-maintaining but their income is being threatened by the intrusion of white trappers who enter the region by airplane and reach trapping grounds which are inaccessible to the natives by dogteam. These white trappers are interested in securing all the fur possible and overtrap the country leaving insufficient breeding stock to assure a continuing fur crop sufficient to maintain the native population. A reservation is necessary to protect this well-established and to date self-maintaining economy of the native people.

The area requested by the natives does not include any established mines, trap lines, or other white interests. The Territorial Cadestrial Engineer reports that there are probably several mining claims within the proposed area but none of them are of record. To date the no-native occupancy of this area is negligible. Therefore, there is no problem involving non-native occupancy. The people of this area are a fine group of Indians, relatively free from white influence and from such undesirable factors as liquor. Their health appears to be above average. At their own request a school was established in 1937. Their initiative is indicated by the fact that they have provided their own school building. The teacher is a native of this community who has secured an education and is rendering excellent service to his people.

In view of the above facts I recommend that the area described be set aside for the protection and benefit of the native Indians of Venetie, Arctic and Christian Vil-

lages and Robert's Fish Camp and that all intoxicating liquors be prohibited within the boundaries of the requested reserve.

Respectfully submitted,

CLAUDE M. HIRST
General Superintendent

CGS:AVM

**RESERVATION APPLICATION OF
CHANDALAR AND CHRISTIAN RIVER AREA**

PETITION

Venetie, Alaska
December 26, 1939

The Honorable Secretary of the Interior
Washington, D.C.

Sir:

We the legal voters of the village of Venetie hereby respectfully petition that the following described tract of land be set aside as a reservation for the use and benefit of the native citizens who reside within this area:

LEGAL DESCRIPTION

Beginning at the center of the upper mouth of the Chandalar River at the point where it enters the main channel of the Yukon River (known locally as Venetie Landing) and following the center of the main channel meanders of the Chandalar River in a general northwest-erly direction to the mouth of East Fork of the Chandalar River; thence following center of the channel meanders of the East Fork in a general north and east direction to the intersection of East Fork with Tritt Creek (known locally as Vunye-che-jik); thence east and north following midchannel meanders of Tritt Creek to its intersection with 145° 30' West longitude (a point approximately 12 miles east and 2 miles north of Arctic Village); thence due south following 145° 30' West longitude to intersection with Otter Creek (a point approximately 6 miles northeast of Simon's Cabin); thence west and south to Christian River; thence in general southerly direction following midstream meanders of Christian River to point of intersection with Cutoff Slough; thence south and east to back Yukon Slough; thence west to main channel of

Yukon River; thence following northern bank downstream in westerly direction to Venetie Landing and point of beginning.

Docho Spasoff

James Roberts

Silas John

Nathaniel Frank

Paul Tritt

Jonas Roberts

Joe Peter

Rufus Roberts

Solomon Flitt

Peter Joseph

Herrun Frank

Henry John

Sophie Henry

Ned Roberts

Anna Roberts

Annie Cadzoa

Elizah John

Etirum Fredson

Jimmy Golen

Laura Golen

John Frank

Sarah Frank

Andrew Roberts

Witness: John Fredson

Witness: Jean R. Fredson

Agnes Roberts
 Martha Frank
 Jonas Roberts
 Sarah Roberts
 Ervin John
 Mary Enook
 Myria Roberts
 Daniel Roberts
 Nena Roberts
 David Henry
 Ellen David Henry
 Julia Tritt
 Allah Frank
 John Fredson

PETITION

(Robert Fish Camp)
 Kachick, Alaska
 October 4, 1939

The Honorable Secretary of the Interior
 Washington, D.C.

Sir:

We the legal voters of the village of Kachick hereby respectfully petition that the following described tract of land be set aside as a reservation for the use and benefit of the native citizens who reside within this area:

LEGAL DESCRIPTION

Beginning at the center of the upper mouth of the Chandalar River at the point where it enters the main channel of the Yukon River (known locally as Venetie Landing) and following the center of the main channel meanders of the Chandalar River in a general northwest-erly direction to the mouth of East Fork of the Chandalar River; thence following center of the channel meanders of the East Fork in a general north and east direction to the intersection of East Fork with Tritt Creek (known locally as Vunye-che-jik); thence east and north following midchannel meanders of Tritt Creek to its intersection with 145° 30' West longitude (a point approximately 12 miles east and 2 miles north of Arctic Village); thence due south following 145° 30' West longitude to intersection with Otter Creek (a point approximately 6 miles northeast of Simon's Cabin); thence west and south to Christian River, thence in general southerly direction following midstream meanders of Christian River to point of intersection with Cutoff Slough; thence south and east to back Yukon Slough; thence west to main channel of Yukon River; thence following northern bank downstream

in westerly direction to Venetie Landing and point of beginning.

Chief Robert

Witness: Andrew Roberts
Witness: Margaret Paul

Charlotte Robert

Witness: Tommy John
Witness: Andrew Roberts

Isaac John

Witness: Elizah John
Witness: Tommy John

Big Eric Isaac

Witness: Elizah John
Witness: Tommy John

Rachael Eric

Witness: Elizah John
Witness: Tommy John

Natholic P. Eric

Margaret John

Margaret Paul

Paul Eric

Paul Jans

PETITION

Christian & Arctic Villages, Alaska
December 16, 1939

The Honorable Secretary of the Interior
Washington, D.C.

Sir:

We the legal voters of the village of Arctic & Christian Villages, respectfully petition that the following described tract of land be set aside as a reservation for the use and benefit of the native citizens who reside within this area:

LEGAL DESCRIPTION

Beginning at the center of the upper mouth of the Chandalar River at the point where it enters the main channel of the Yukon River (known locally as Venetie Landing) and following the center of the main channel meanders of the Chandalar River in a general northwest-
erly direction to the mouth of East Fork of the Chandalar River; thence following center of the channel meanders of the East Fork in a general north and east direction to the intersection of East Fork with Tritt Creek (known locally as Vunye-che-jik); thence east and north following mid-
channel meanders of Tritt Creek to its intersection with 145° 30' West longitude (a point approximately 12 miles east and 2 miles north of Arctic Village); thence due south following 145° 30' West longitude to inter-
section with Otter Creek (a point approximately 6 miles northeast of Simon's Cabin); thence west and south to Christian River; thence in general southerly direction fol-
lowing midstream meanders of Christian River to point of intersection with Cutoff Slough; thence south and east to back Yukon Slough; thence west to main channel of Yukon River; thence following northern bank downstream

in westerly direction to Venetie Landing and point of beginning.

Jimmie Christian

Gilbert Gasec

Moses Sims

Abraham Christian

James Gilbert

Peter Christian

Kepril Peter

Witness: Jimy Christian

Witness: Gilbert Joseph

Allice Gabriel

Witness: Moses Sam

Maggie Gilbert

Witness: Elah Frank

Lyey Frank

Witness: John Frank

Helen Peter

Witness: Elah Frank

Jurli Moses Sam

Meitah Simon

Witness: Sarah Simon

Sarah Simon

Witness: Martha Simon

Martha Simon

Andrew Simon

Witness: Sarah Simon

Witness: Martha Simon

RESERVATION APPLICATION

OF

CHANDALAR AND CHRISTIAN RIVER AREA

POPULATION:

The residents of the proposed reservation live principally in Arctic Village, Robert's Fish Camp, Venetie and Christian Village however during the winter they are required to move to hunting and trapping grounds where they live in small cabins built for the purpose and during the summer they move to the various fishing grounds to catch fish for food for themselves and for their dogs. These people find it impossible to provide sufficient food and clothing for themselves unless an extremely large area of land is covered by each family. The population of the four villages within the boundary of the proposed reservation is:

POPULATION OF PROPOSED RESERVATION

| Name of Village | Number of Families | Total Population |
|--------------------|--------------------|------------------|
| Arctic Village | 9 | 34 |
| Robert's Fish Camp | 5 | 27 |
| Venetie | 21 | 91 |
| Christian Village | 12 | 50 |
| TOTAL | 47 | 202 |

From census records U. S. Indian Service.

AREA:

The total area of the proposed reservation is estimated at 1,403,000 acres or 2200 square miles.

REASON FOR REQUESTING A RESERVATION:

The area, included within the boundaries of this reservation is used by these Native people as hunting, trapping

and fishing grounds upon which they must depend for their livelihood.

Well equipped white trappers go by plane into areas which are inaccessible to the Natives. These areas are recognized as the breeding grounds for the fur bearers of the reservation area. Through this depletion of the breeding stock, fur bearing animals are becoming more and more scarce each year and unless something is done to stop the ruthless exploitation and slaughter of game and fur bearing animals of this area those people will soon be compelled to request aid from the Government to prevent starvation. The fact that white trappers can fly into areas, that are inaccessible by dog team, and are taking out as much fur as two to three Native families can catch in one season, is tending to break the morale of these people as well as reduce them to poverty.

OCCUPANCY BY NATIVES:

The people of Venetie and neighboring villages have resided in their present locality for many years. They have lived off the country depending upon game and fish for a major part of their food supply and upon furs for their cash income. In order to use these widely scattered resources they have developed an extensive system of trails, traplines, hunting and trapping camps and fish camps. These trails and camps represent a considerable investment in time and labor.

The people of the four main villages of Venetie, Arctic Village, Christian Village and Robert's Fish Camp as well as of the small semi-permanent camps. Many of the trails and camps are used jointly by the people of the different villages. Such camps and trails are indispensable to the utilization of the resources of the region. Since the entire area lies north of the Arctic Circle, the resources are sparse and large areas are required for the support of a few people. Travel over these areas in search of game

and fur would be impossible without well developed trails and a sufficient number of shelter cabins or camps.

The people of this area have not to date established any trading posts of their own. They have been compelled to go to Ft. Yukon, 65 miles from Venetie, for all supplies, this journey requiring at least a 4 days round trip.

Since the school was opened at Venetie in 1937 considerable interest has been shown in gardening and the people of this village may supplement their food supply with potatoes and root vegetables from their own gardens. The need of protecting these resources from exploitation by whites is indicated by the following letter from John Fredson, U.S. Government Teacher at Venetie, Alaska:

Chandalar, Alaska
Jan. 1st, 1939

Dear Mr. Hirst:

If the Chandalar school is to be permanent, in our opinion, the first big step is to put that section of the country under reservation. There is no trader there now. The people want the reservation. And they realize that the time has come when such action is necessary to protect their fur and game.

Please note the petition attached. This is the story. The planes are rapidly changing the methods of trapping. Two of the residents took a plane this fall and in a short time came back with one hundred marten. How long can this keep up? We suggest that a section of the Chandalar country be made into a reservation for the Natives. Attached is a map. Also the possible boundaries.

(Sgd) John Fredson

Mr. Clyde G. Sherman
Office of Indian Affairs
Field Service
Nome, Alaska.

Dear Mr. Sherman:

The Chief of Venetie, John Frank, made a special trip to the Arctic Village country to get signatures for the proposed reservation. The Chief was gone about two weeks, had hard trail and he often had to camp out in the open. And did succeed in getting most of the signatures. All he saw signed, but a few were so far away that he could not reach them. The people of Arctic Village and Christian Village move back and forth so much that it is difficult to place them. At present they are camping a half way between the two places.

But Kachick and Venetie have all signed up.
With all good wishes,

Sincerely,

(Sgd) John Fredson

Note: See copy of Economic Survey on file in Indian Office for additional information. Kachick is the same village as Robert's Fish Camp.

CHARACTER OF THE LAND AND USES FOR WHICH IT IS SUITABLE:

The general character of the land within the boundaries of the proposed reserve is rolling and mountainous with a maximum elevation of approximately 3,000 ft. There are numerous lakes and marshes and small streams. The large area in the southern part of the reserve is flat and marshy. Much of this area is sparsely covered with a growth of scrub spruce, alder, moss and other arctic vegetation. The area is a natural range for caribou, mountain

Venetie, Alaska
December 30, 1939

sheep, moose and other game animals as well as for such fur bearers as muskrats, beaver, mink, marten, lynx and others. White fish are found in the streams and lakes although the number of salmon taken is small.

Since the land of this proposed reservation lies north of the Arctic Circle and that the level land along the Yukon River is very swampy and dotted with lakes there seems to be very little likelihood that this land will ever be valuable for agricultural purposes or be capable of supporting any other than a sparse population.

WATER AREAS WHICH ARE INDISPENSIBLE TO THE NATIVES

The Natives depend upon the rivers which form the boundary of their proposed reservation for their supply of fish for food and for feed for their dogs. The streams are also used as routes of transportation, in the summer by boat and in the winter by dog sled. For these reasons the Natives request that the center of the streams bounding the proposed reservation be made the boundary of their reservation.

THERE IS NO EXISTING RESERVATION WITHIN THE BOUNDARY OF THE PROPOSED RESERVATION.

OCCUPANCY AND USE OF LAND AND WATER IN QUESTION BY NON-NATIVES:

There are no non-native occupants within the proposed reserve area. The only use made of the resources is where white trappers invade the area by airplane to trap. This is particularly damaging to the fur resources of the country as white trappers get into otherwise inaccessible areas and are seriously depleting the breeding stock of fur animals.

**POSSIBLE FUTURE USE OF LANDS AND WATER
BY NON-NATIVES IN EVENT IT IS NOT RESERVED
FOR THE BENEFIT OF THE NATIVES:**

If this area is not reserved white trappers will continue to fly into the territory and with the very best of equipment available, they will be able to diminish the fur to a point where it will be impossible for the Natives to subsist. There appears to be very little likelihood that any appreciable number of whites will occupy the territory within the next 50 years. There is however within the area forests that might be utilized when the lumber supply becomes exhausted in the Southeastern part of Alaska. There are no known coal or other minerals that are found in paying quantities within the area. And, since this area lies north of the Arctic Circle there is a very small possibility that it will ever be developed from an agricultural standpoint.

[Exhibit 18]

Venetie, Alaska
December 30, 1939

Mr. Clyde G. Sherman
Office of Indian Affairs
Field Service
Nome, Alaska.

Dear Mr. Sherman:—

The Chief of Venetie, John Frank, made a special trip to the Arctic Village country to get signatures for the proposed reservation. The Chief was gone about two weeks, had hard trail and he often had to camp out in the open. And did succeed in getting most of the signatures. All he saw signed, but a few were so far away that he could not reach them. The people of Arctic Village and Christian Village move back and forth so much that it is difficult to place them. At present they are camping a half way between the two places.

But Kachick and Venetie have all signed up.

With all good wishes,

Sincerely,

(Sgd) John Fredson

[Exhibit 20]

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

CONSTITUTION AND BY-LAWS
OF THE
NATIVE VILLAGE OF VENETIE
ALASKA

RATIFIED JANUARY 25, 1940

[SEAL]

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1940

CONSTITUTION AND BY-LAWS OF THE NATIVE
VILLAGE OF VENETIE

We, a group of Indians having the common bond of living together in the Village of Venetie, Territory of Alaska, in order to have better life and greater security, make for ourselves this Constitution and By-laws, by authority of the Act of Congress of June 18, 1934, as amended by the Acts of June 15, 1935 and May 1, 1936.

ARTICLE I—NAME

This organization shall be called the "Native Village of Venetie."

ARTICLE II—MEMBERSHIP

SECTION 1. *First Members.*—All persons whose names are on the list of native residents, made according to the Instructions of the Secretary of the Interior for organization in Alaska, shall be members of the Village.

SEC. 2. *Children of Members.*—All children of any members shall be members of the Village.

SEC. 3. *Loss of Membership.*—Any member may willingly give up his membership, or his membership may be taken away for good reason by the Village, or if he moves away from the Village, intending not to return, he shall lose his membership.

SEC. 4. *New Membership.*—Any person who has lost his membership and any other native person may be made a member if he sets up a home in the Village.

SEC. 5. *Membership Rules.*—The Village may make rules to govern membership, either for the purpose of carrying out this Article or covering membership matters not taken care of in this Article.

ARTICLE III—GOVERNING BODY

SECTION 1. *Choice of Governing Body.*—At a general meeting following the acceptance of this Constitution, the Village membership shall decide what kind of governing body it wishes to set up to speak and act for the Village and to use the powers of the Village. If there is a governing body already set up in the Village, at the time this Constitution is accepted, the membership may decide to keep that governing body, or it may choose a new form of government.

SEC. 2. *Choice of Officers.*—The Village shall at the same time decide how members and officers of the governing body shall be chosen and how long they shall serve. The Village shall then choose the members to serve on the governing body and such officers as may be thought necessary.

SEC. 3. *Meetings of Membership and Governing Body.*—The Village shall decide when and how often there should be meetings of the whole Village membership as well as of the governing body; also it shall decide what notice shall be given for the calling of meetings and how many members must be present at such meetings in order to do business; and it may make any other rules necessary for the holding of meetings. A general meeting of the whole membership shall be held at least once a year.

SEC. 4. *Record and Report of Village Decisions.*—A record shall be made and kept of all the rules made under sections 1, 2, and 3 of this Article, which record shall be called the Record of Organization of the Native Village of Venetie. Copies of this record shall be given to the teacher or other representative of the Office of Indian Affairs serving the Village. There shall be put in the record the names of all persons chosen to be officers of the Village.

ARTICLE IV—POWERS OF THE VILLAGE

SECTION 1. *Powers Held.*—The Village shall have the following powers:

To do all things for the common good which it has done or has had the right to do in the past and which are not against Federal law and such Territorial law as may apply.

To deal with the Federal and Territorial Governments on matters which interest the Village, to stop any giving or taking away of Village lands or other property without its consent, and to get legal aid, as set forth in the act of June 18, 1934.

To control the use by members or nonmembers of any reserve set aside by the Federal Government for the Village and to keep order in the reserve.

To guard and to foster native life, arts and possessions and native customs not against law.

SEC. 2. *Grant of More Powers.*—The Village may have and use such other powers as may be given to it by the Federal or Territorial Government.

SEC. 3. *Use of Powers.*—The governing body shall put into use such of the powers of the Village as the Village may give to it at general meetings of the membership and shall make reports of its actions to the membership at general meetings.

SEC. 4. *Rule-making Power.*—The Village may make rules which are not against law to carry out the words of this Constitution.

ARTICLE V—RIGHTS OF MEMBERS

SECTION 1. *Right to Vote.*—All members of the Village 21 years of age or over shall have the right to vote in Village meetings and elections.

SEC. 2. Right to Speak and Meet Freely.—Members of the Village shall have the right to speak and meet together freely in a peaceable way.

SEC. 3. Right to Share in Benefits.—Members of the Village shall have equal chance to share in the benefits of the Village.

ARTICLE VI—CHANGES IN THE CONSTITUTION

Changes in this Constitution and By-laws may be made if the changes are approved by the Secretary of the Interior and by a majority vote of the Village members voting in an election called by the Secretary of the Interior at which at least 30 percent of the voting membership take part.

BY-LAWS OF THE NATIVE VILLAGE OF VENETIE

ARTICLE I—OFFICERS AND THEIR DUTIES

SECTION 1. Village Records.—The Village or the governing body shall choose one or more members who shall have the duty of keeping records of all actions and decisions of the Village and of the governing body and of giving copies of the records to the representatives of the Office of Indian Affairs serving the Village.

SEC. 2. Village Funds.—The Village or the governing body shall choose one or more members who shall have the duty of caring for the Village funds and keeping records of all funds taken in and paid out and giving copies of the records to the representative of the Office of Indian Affairs.

SEC. 3. Officers and Agents.—The Village or the governing body may choose as many officers and agents as it may need to carry out its duties and shall state the length of service and the duties of each officer or agent when he is chosen.

ARTICLE II—ADOPTION

This Constitution and By-Laws shall be in effect when it is agreed to by a majority vote of the Village members voting in an election called for the purpose by the Secretary of the Interior: *Provided*, That at least 30 percent of the voting membership take part. The persons entitled to vote are all the adult native residents in the Village of Venetie.

APPROVAL

This Constitution and By-laws is hereby approved by the Assistant Secretary of the Interior and submitted for acceptance or rejection by the group of Indians having a common bond of living together in the Village of Venetie, Alaska, in an election called and held under the Instructions of the Secretary of the Interior.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said constitution and by-laws will be inapplicable to the Village of Venetie, Territory of Alaska, from and after the date of adoption of this constitution.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said constitution and by-laws.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[SEAL]

WASHINGTON, D. C., May 15, 1939.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved May 15, 1939, by the Assistant Secretary of the Interior, the attached constitution and by-laws was submitted for ratification to the group of Indians having a common bond of residence in the Village of Venetie, Territory of Alaska, and was on January 25, 1940 duly ratified by a vote of 30 for and none against in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 373).

JOHN FRANK,
Chairman, Election Board.

JOHN FREDSON,
Government Representative.

UNITED STATES DEPARTMENT OF THE INTERIOR OFFICE OF INDIAN AFFAIRS

CORPORATE CHARTER OF THE NATIVE VILLAGE OF VENETIE ALASKA

Ratified January 25, 1940

CORPORATE CHARTER OF THE NATIVE VILLAGE OF VENETIE

A Federal Corporation Chartered Under the Act of June 18, 1934, as Amended by the Act of May 1, 1936

Whereas, a group of Indians having a common bond of living together in Venetie, Territory of Alaska, seek to organize under sections 16 and 17 of the Act of June 18, 1934, and section 1 of the Act of May 1, 1936, by adoption of a constitution and by-laws and a charter approved by the Secretary of the Interior.

Now, therefore, I, Oscar L. Chapman, Assistant Secretary of the Interior, by virtue of the authority given to me by the above acts, do hereby submit this charter of incorporation to the group of Indians so organizing.

SECTION 1. Purpose and Name.—In order to enable the Village and its members to do various kinds of business for their good, the Village is hereby chartered as a corporation of the United States of America under the name of "Native Village of Venetie."

SEC. 2. Membership.—The corporation shall be a membership corporation, consisting of all persons of the

Village considered members under the rules of its constitution.

SEC. 3. Management.—The corporation shall be managed by the governing body set up under the constitution.

SEC. 4. Powers.—The corporation shall have the power to do the following things:

- To own, hold, manage and dispose of all Village property;
- To make contracts;
- To sue and be sued;
- To borrow money from the revolving Indian credit fund and to use it under a loan contract;
- To enter into any business or activity that will better the condition of the Village and its members;
- To do such other things as may be necessary to carry on the business and activities of the Village.

SEC. 5. Limits to Powers.—In using its powers the corporation must not do the following things:

- Go against any law or the constitution and by-laws of the Village;
- Sell or mortgage any land set aside as a reserve for the Village;
- Make leases, permits or contracts covering any lands or waters set aside as a reserve for the Village without the approval of the Secretary of the Interior or his authorized representative.

SEC. 6. Property of Members.—Property owned by a member of the Village shall not be taken to pay the debts of the corporation without his consent.

SEC. 7. Records—The corporation shall keep correct records of its business and activities and give copies of

these records when asked to do so to the representative of the Office of Indian Affairs serving the Village.

SEC. 8. Changes in the Charter.—Changes in the charter may be made by the Village and if approved by the Secretary of the Interior shall be in force when agreed to by a majority vote of those members voting in an election called by the Secretary of the Interior: *Provided*, That at least 30 percent of the voting membership votes. The charter itself shall continue in force for all time, unless taken away by act of Congress.

SEC. 9. Adoption of Charter.—This charter shall be in force when it is agreed to by a majority vote of those members voting in an election called by the Secretary of the Interior: *Provided*, That at least 30 percent of the voting membership votes and provided that the Village has agreed to a constitution and by-laws approved by the Secretary of the Interior.

This Charter is hereby approved and submitted to the group of Indians having a common bond of residence in the Village of Venetie, Alaska, to be voted on in an election called and held under the Instructions of the Secretary of the Interior. The Charter shall be deemed issued when a petition for a Charter, signed by one-third of the adult Indians, has been received by an authorized representative of the Department of the Interior.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[SEAL]

WASHINGTON, D. C., May 15, 1939.

CERTIFICATION

Pursuant to an order, approved May 15, 1939 by the Assistant Secretary of the Interior, the attached charter was submitted for ratification to the group of Indians having a common bond of residence in the Village of Venetie, Territory of Alaska, and was on January 25, 1940 duly ratified by a vote of 30 for and none against, in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with the Alaska Act of May 1, 1936 (49 Stat. 1250), and section 17 of the Act of June 18, 1934 (48 Stat. 934), as amended by the Act of June 15, 1935 (49 Stat. 373).

JOHN FRANK,
Chairman, Election Board.

JOHN FREDSON,
Government Representative.

[Exhibit 25]

May 20, 1943

**UNITED STATES
DEPARTMENT OF THE INTERIOR
WASHINGTON**

**MEMORANDUM for the Commissioner,
Office of Indian Affairs
Director, Fish and Wildlife Service**

I have, this day, signed proclamations setting aside certain lands and waters in Alaska as Indian Reservations under section 2 of the Act of May 1, 1938 (49 Stat. 1250). These include land and water areas in the vicinity of White Mountain Village in Horton Sound; Artis Village north of the Yukon River; Akutan and including the entire island of Akun; and Shishmarof on the north side of Seward Peninsula including the island of Sarichef. Establishment of these and like reservations in no sense diminishes the regulatory power of the United States with respect to the fish and wildlife resources on the areas embraced therein. In order to preserve and develop such resources in reservations established under section 2 of the Act of May 1, 1936 it is my desire that the Fish and Wildlife Service and the Indian Service shall work in closest co-operation, and that they shall prepare for my approval an agreement of understanding on how best to effectuate the administration of this joint responsibility.

(Sgd.) **OSCAR L. CHAPMAN**
Assistant Secretary

[Exhibit 26]

May 20, 1943

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 OFFICE OF THE SOLICITOR
 WASHINGTON

MEMORANDUM for the Assistant Secretary.

In compliance with your memorandum of May 7 I have had the five proposed orders designating lands in Alaska as Indian reservations under the act of May 1, 1936 (49 Stat. 1250, 48 U. S. C. sec. 358a), rewritten to include the mineral rights within the reservations.

The four orders prepared for your signature should be returned to the Office of Indian Affairs after you have signed them so that they may be certified and transmitted to the Director of the Division of the Federal Register. The public land order designating the lands and water surrounding the village of Karluk on Kodiak Island should be returned to the General Land Office after it has been signed by the Secretary so that it too may be certified and transmitted to the Federal Register, as required by 1 CFR 2.3.

If you and the Secretary will return these orders to my office after they have been signed, I will return them to the bureaus for certification.

Enclosure 2929443

/s/ Illegible
 Solicitor.

[Exhibit 27]

RETYPEDE

PROCLAMATION DESIGNATING AN INDIAN RESERVATION FOR THE INHABITANTS OF THE NATIVE VILLAGES OF VENETIE, ARCTIC VILLAGE, CHRISTIAN VILLAGE, AND ROBERT'S FISH CAMP (KACHICK). ALASKA

Pursuant to authority vested in the Secretary of the Interior by section 2 of the act of May 1, 1936, 49 Stat. 1250 (U.S.C., title 48, sec. 358a), there is hereby designated as an Indian Reservation for the use and occupancy of the native inhabitants of the villages of Venetie, Arctic Village, Christian Village, and Robert's Fish Camp (Kachick) and vicinity, Alaska, the following area:

Beginning at the center of the upper mouth of the Chandalar River at the point where it enters the main channel of the Yukon River (known locally as Venetie Landing) and following the contour of the main channel meanders of the Chandalar River in a general northeasterly direction to the mouth of East Fork of Chandalar River; thence following contour of the channel meanders of the East Fork in a general north and east direction to the intersection of East Fork with Tritt Crook (known locally as Vuny-chojik); thence east and north following mid-channel meanders of Tritt Creek to its intersection with 145° 30' West longitude (a point approximately 12 miles east and 2 miles north of Arctic Village); thence due south following 145° 30' West longitude to intersection with Otter Creek (a point approximately 6 miles northeast of Simon's Cabin); thence west and south to Christian River; thence in general southerly direction following midstream meanders of Christian River to point of intersection with Cutoff Slough; thence south and east to back Yukon Slough; thence

west to main channel of Yukon River; thence following northern bank downstream in westery direction to Venetie Landing and point of beginning.

The area described aggregates 1,408,000 acres.

This order shall be subject to any valid existing rights or claims acquired prior to the date hereof and shall become effective only upon its approval by a majority vote of the natives residing in the above-described area, voting in the manner proscribed by the said section 2 the act of May 1, 1936, *supra*.

Done in the city of Washington, D.C., this 20 day of May, 1943.

(Signed Oscar L. Chapman)

Assistant Secretary of Interior

[Exhibit 28]

RETYPEDE

In Reply refer to:
O&O-RLW

Juneau, Alaska
July 23, 1943

AIRMAIL

Mr. John Fredson
U.S. Government Teacher
Venetie, Alaska—via Fort Yukon

Dear Mr. Fredson:

The Commissioner of Indian Affairs mailed us a copy of "Proclamation Designating an Indian Reservation for the Inhabitants of the Native Villages of Venetie, Artic Village, Christian Village, and Robert's Fish Camp (Kachick), Alaska", stating that *the Proclamation shall become effective only when its approval by a majority vote of the natives residing in the area, voting in the manner proscribed by section 2 of the act of May 1, 1936 (49 Stat. 1260)*, and that action shall be taken to obtain an election by the natives. Three copies of the Proclamation are enclosed.

For your information we are enclosing a copy of "Composite Indian Reorganization Act for Alaska, Alaskan Amendment of May 1st, 1936". Please note that in order for the Reservation to become effective a special election must be duly called by the Secretary of the Interior upon 30 days notice.

We are enclosing a sample ballot for your guidance and use in voting on the proclamation at the time the election is held. You should prepare a sufficient number for your use. Also enclosed is the original and five copies of "Certification of Adoption" for completion as soon as results of the election are known. Please mail us the original and two copies.

Upon receipt of this letter will you please discuss the matter with the Village Council and give us as soon as possible a proposed election date which you recommend as the most suitable time, such date being not less than 90 days from the time you wire me. We will then advise the Commissioner at once of your desire, recommending that the Secretary call the election within the time so requested by you.

Sincerely yours,

Claude M. Hirst
General Superintendent

Enclosures
—:mjsp

[Exhibit 29]

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON

Nov. 25, 1943

Mr. Claude M. Hirst
Gen. Supt., Alaska (Indian Service)

Dear Mr. Hirst:

Reference is made to the proclamation of May 20, 1943, issued pursuant to Section 2 of the Alaska Act of May 1, 1936 (49 Stat. 1250), designating certain lands as an Indian reservation for the use and benefit of the native inhabitants of the village of Venetie, Arctic Village, Christian Village, and Robert's Fish Camp (Kachick) and vicinity, Alaska. The proclamation shall become effective only upon its approval by a majority vote of the natives residing in the area described therein.

By letter of October 14, you recommended that an election date be called on March 1, 1944. Therefore, under authority of Section 2 of the Act of May 1, 1936, supra, and in accordance with your recommendation, an election is hereby called for the purpose of enabling the native inhabitants of the above mentioned villages and vicinity to vote on the approval of the said proclamation of May 20, 1943. The election shall be held on March 1, 1944, and shall be conducted in accordance with the requirements of Section 2 of the said Act of May 1, 1936. A copy of the ballot used in the election and a certificate executed by the proper officials certifying as to the date and the results of such election should be submitted for the records of the Indian Office.

Sincerely yours,

/s/ Oscar L. Chapman
OSCAR L. CHAPMAN
Assistant Secretary

cc: Washington Office

[SEAL]

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 OFFICE OF THE SOLICITOR
 Washington, D.C. 20240

Sep. 20, 1978

Mr. Donald R. Wright, Agent
 Native Village of Venetie
 Tribal Government
 Star Route Box 10402
 Fairbanks, Alaska 99701

Dear Mr. Wright:

Secretary Andrus has asked me to respond to your letter to him of August 8, 1978.

I have enclosed a memorandum from the Associate Solicitor, Division of Indian Affairs, to the Assistant Secretary for Indian Affairs which is relevant to some of the questions you raise in your letter. As you will note, the memorandum concludes that the Secretary has no authority to restore the former Venetie Reserve to trust status.

I am aware of the delays that have occurred in the actual conveyance of the lands, and I assure you that we are making every effort to complete the conveyance as soon as possible. Until the actual conveyance, however, it is clear that the regulations found at 43 C.F.R. § 2650.1 (a)(1), setting forth provisions for interim administration, apply to the former Venetie Reserve. See 43 C.F.R. § 2654.3(a). Section 2650.1(a)(1) provides:

Prior to any conveyance under the act, all public lands withdrawn pursuant to sections 11, 14, and 16, or covered by 19 of the act, shall be administered under applicable laws and regulations by the Secretary of the Interior, or by the Secretary of Agriculture in the case of national forest lands, as provided by section 22(i) of the act. The authority of the

Secretary of the Interior and of the Secretary of Agriculture to make contracts and to issue leases, permits, rights-of-way, or easements is not impaired by the withdrawals. (Emphasis supplied.)

The Secretarial authority set forth above is exercised by the Bureau of Land Management. Of course, in the exercise of such authority, it is necessary that:

Prior to making contracts, or issuing leases, permits, rights-of-way, or easements on lands subject to election pursuant to section 19(b) of the act, the Secretary shall obtain the consent of the representatives of the Natives living on those lands. 43 C.F.R. § 2650.1(a)(2)(ii)

In view of the above, I do not see that a meeting with the Secretary would serve any useful purpose. Under the present circumstances, the Secretary simply does not have the authority to ignore the policy and statutory provisions of the Alaska Native Claims Settlement Act and restore the former Venetie Reserve to trust status, or to waive valid Departmental regulations and exempt Venetie from regulations which clearly apply to Venetie lands. It would appear that Departmental responsibilities with respect to former trust land can only be restored through legislation. This is an avenue you may wish to pursue. Should you generate a legislative proposal on this matter, the Secretary, I, or one of our representatives will be happy to discuss the proposal with you at some future date.

Sincerely,

/s/ [sgd]
 Solicitor

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 OFFICE OF THE SOLICITOR
 Washington, D.C. 20240

MEMORANDUM

To: Assistant Secretary—Indian Affairs
 From: Associate Solicitor, Indian Affairs
 Subject: Trust land for the Natives of Venetie and Arctic Village

This is in response to the memorandum of the Deputy Assistant Secretary for Administration, dated December 13, 1977, requesting reconsideration of the position taken by former Under Secretary Kent Frizzell that the Alaska Native Claims Settlement Act (ANCSA) precludes the Secretary from restoring land held in fee by Alaska Natives to trust status pursuant to Section 5 of the Indian Reorganization Act (IRA). Our research reaffirms the conclusion of the former Under Secretary. We further believe that there is no basis for distinguishing, for purposes of Section 5, former reservation land patented pursuant to Section 19(b) of ANCSA from any other land conveyed to Natives pursuant to ANCSA.

The intent of Congress to permanently remove all Native lands in Alaska from trust status is unmistakable. The declaration of policy states that "the settlement should be accomplished . . . without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges . . ." 43 U.S.C. § 1481(b).

In analyzing the declaration of policy, the Senate Report stated: "A major purpose of this committee and the Congress is to avoid perpetuating in Alaska the reservation and the trustee system." S. Rep. No. 405, 92th

Cong., 1st Sess. (1971) at 108. This theme was oft repeated in the floor debates. See examples cited in Appendix.

The Natives of Venetie and Arctic Village elected, pursuant to Section 19(b), to take their former reservation in fee. They argue that they thereby disassociated themselves from the settlement legislation and that interpretations based upon the act as a whole should not apply to them. This argument misconstrues the nature of Section 19(b). While a vote to take a former reservation in fee renders the Natives ineligible for the land and monetary benefits generally provided for elsewhere in ANCSA, it is incorrect to say that the vote disassociates them from the settlement. ANCSA was a settlement of all Native claims. It includes Natives on and off reservations. This point may be demonstrated by comparing the treatment of the Metlakatlans of the Annette Island Reserve with Natives of all other reservations. The Metlakatlans are the sole group of Natives not included within the settlement since they are of Canadian origin and thus have no aboriginal claims to settle. In contrast to other reservation Natives, the Metlakatlans have no village corporation under ANCSA, and their reservation was not revoked.

The option contained in Section 19(b) was not designed to allow "reservation Natives" to disassociate themselves from the settlement. Rather, it was designed to avoid the hardship which would result if these Natives were forced to select land elsewhere, or a lesser total acreage. S. Rep. No. 405, 92d Cong., 1st Sess. (1971) at 159.

The structure and legislative history of Section 19 itself precludes the restoration of former reservations to trust status. Section 19 revokes all reservations (except for Metlakatla) and directs that the land be conveyed to the ANCSA village corporation, not to the IRA entities. It does not allow Natives to vote for continued trust status. It merely allows them to choose between two

forms of compensation in settlement of their claims. It is clear from alternatives to Section 19 in earlier proposed settlement legislation that Congress did not exclude the alternative of continued trust status by oversight. Section 22, the counterpart in S. 35 to Section 10, would have allowed the Metlakatlans the choice between continued trust status and fee ownership. Even more telling is the fact that the Councils of Venetie and Arctic Village proposed an amendment to Section 15 of H.R. 10193 (an earlier version of Section 19) which would have permitted the retention of trust status. The proposal was never incorporated into ANCSA. Resolution No. 69-3, Combined Councils of the Native Village of Venetie and Arctic Village Native Council, June 11, 1969.

Also significant is the repeal in Section 704(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, of Section 2 of the Act of May 1, 1936, 49 Stat. 1250, 25 U.S.C. § 496, which extended the provisions of the Indian Reorganization Act to Alaska and gave the Secretary the authority to designate certain lands in Alaska as Indian reservations. In view of the clear legislative intent and policy expressed in ANCSA's extensive legislative history, it would, in my opinion, be an abuse of the Secretary's discretion to attempt to use Section 5 of the IRA (which, along with §§ 1, 7, 8, 15, and 17 of the IRA still apply to Alaska pursuant to the unpealed portion of the Act of May 1, 1936) to restore the former Venetie Reserve to trust status.

We have reviewed the materials received by the Chief of the Branch of Tribal Government Relations in support of the petition for the restoration of trust status. These materials concern the advisability of a restoration of trust status and set out the provisions of the IRA. There is nothing in these materials which counters our analysis of ANCSA. There is only a vague suggestion in the letter from Donald Wright to former Commissioner of Indian Affairs Thompson, dated August 13, 1976, that the Na-

tives believed that they could retain the reservation in trust when they voted pursuant to Section 19 to take the reservation in fee. Nothing else in the materials supports or belies this suggestion. At any rate, a finding that the Natives were uninformed in no way affects the inability of the Secretary as a matter of law to restore the reservation to trust status. Even assuming the Natives could establish that they were uninformed, or worse, actively misled, it does not follow that the remedy would be to return the land to reservation, trust status. At most, the Natives would be entitled to another vote, such as the opt-in, opt-out election ordered by the court following the establishment of the 13th Region, between fee status and normal ANCSA benefits. The Natives do not seem to be requesting a such second vote, and we are not sure that a second vote would be possible at this time absent a court order.

In conclusion, Congress intended permanently to remove from trust status all Native land in Alaska except allotments and the Annette Island Reserve. Section 19(b) allows the Natives of former reservations to choose between two forms of compensation, but does not allow them to disassociate themselves from the settlement. Finally, even if the Natives could disassociate themselves from the settlement, Section 19 itself and its legislative history preclude the restoration of trust status.

/s/ Thomas W. Fredericks
THOMAS W. FREDERICKS

APPENDIX

STATEMENTS REGARDING RESERVATIONS
MADE DURING ANCSA DEBATES

Rep. Kyl: I do not know of any member of the committee who wanted anything to do with setting up a reservation system in the State of Alaska similar to that which we have in the lower 48 states. Our experience with reservations has just been so tragic and has resulted in such a futile paternalistic system that we wanted to avoid that completely. 117 Cong. Rec. 36856 (1971).

Rep. Meeds: Every one of the bills in our committee and the bills in the other body, all of them, eschew the reservation or trust concept. For far too long we in America have been making the Natives' mistakes for them. 117 Cong. Rec. 36865 (1971).

Sen. McGovern: Those who are concerned about creating new Indian reservations in Alaska can find a solution to this problem by assuring an opportunity for the Natives to secure productive and promising lands. 117 Cong. Rec. 38444 (1971).

Sen. Gravel: Under the committee bill all reservations in Alaska are revoked, unless the village corporations located within the reservation elect to take fee title to the reservation. If Natives do elect to take title to the reservation, they will not participate in the land selection procedures of the bill nor share in the monetary settlement. 117 Cong. Rec. 46967 (1971).

[SEAL]

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
Washington, D.C. 20240

Dec. 23, 1980

John E. Rougeot, President
Rougeot Oil and Gas Corporation
7030 South Yale, Suite 401
Tulsa, Oklahoma 74136

Mr. Paul S. Williams
First Chief, Native Village of Venetie
Venetie, Alaska 98781

Gentlemen:

This is in partial response to an inquiry of September 11, 1980, by counsel for the Native Village of Venetie and Rougeot Oil and Gas Corporation addressed to the Superintendent of the Bureau of Indian Affairs, Fairbanks, relating to Secretarial approval of certain oil and gas leases. Your inquiries were forwarded by the Bureau of Indian Affairs to us for response.

You have posed several complex questions which give rise to a variety of issues, some of which are relatively easy and some of which are extremely difficult and ones of first impression for this Department. Since we are aware that the existing agreements contain an option provision which must be exercised by December 31, 1980, we are anxious to provide you with at least our initial response to those questions or parts of questions for which there is a fairly clear answer. We will endeavor to provide you with a complete answer as soon as possible. We believe, however, that even these partial answers should be of help to you.

Our understanding of the facts is that on July 12, 1973, representatives of the Village of Venetie tribal government

incorporated the Village as an Alaska corporation pursuant to Alaska Native Claims Settlement Act of 1971 (ANCSA). Arctic Village followed the same procedures in forming the Neets'ai Corporation. The corporations elected to take the former Venetie Indian Reservation lands, including the mineral estate, in fee pursuant to Section 19(b) of ANCSA.

On September 1, 1979, both Neets'ai Corporation and Venetie Indian Corporation (the ANCSA entities) executed warranty deeds granting all their interests in the reservation lands to the Venetie entities organized under the Indian Reorganization Act (IRA).

On December 17, 1979, the Federal Government issued a patent to the Neets'ai and Venetie Indian Corporations, as tenants in common, for the entire estate comprising the former Venetie Indian Reservation. The patent was issued pursuant to Section 19(b) of ANCSA and was made subject only to valid existing rights.

On September 4, 1980, the Venetie IRA entities leased oil and gas rights on all their lands to Rougeot for a primary term extending through December 31, 1982. The initial lease bonus was set at \$1,800,000, of which \$200,000 was a previously paid option fee.

Finally, and also on September 4, 1980, the IRA entities, the ANCSA entities and Rougeot entered an "Agreement and Conveyance" which purports to draw the IRA and ANCSA entities together as responsible parties under the oil and gas lease. The document provides that if any of the transactions with Rougeot or between the Native entities are held invalid, the IRA entities would be deemed to have conveyed their interest in the land and minerals back to the ANCSA entities as tenants in common. The Agreement and Conveyance further provides that Rougeot may enforce its rights under the oil and gas lease against any of the Native entities—ANCSA or IRA.

As already indicated, these facts give rise to several complex issues. The membership in ANCSA corporations

and the membership in the Venetie IRA entities are not the same. Accordingly, conveyance by the ANCSA corporations to the IRA entities could constitute the conveyance of all or substantially all of the ANCSA corporations' assets. While there is no evidence in the file on this point, we have no reason to suspect that the ANCSA corporations did not comply fully with the special requirements of Alaska state corporate law relating to shareholder approval of such conveyances. *See* Alaska Statutes § 10.05.435 and 438. We mention this requirement because there is an unresolved problem as to the relationship between the Venetie IRA and members of the traditional community of Arctic Village.

The members of both of these communities have acted in recent years as though they were all members of the Venetie IRA entities. However, the record does not justify such action. The Venetie IRA organization was ratified January 25, 1940. It was not until March 1, 1944, that people from the traditional community of Arctic Village and the Venetie IRA, as well as two other traditional communities (Christian and Robert's Fish Camp (Kachick)), voted to accept the reservation in trust. This later vote did not constitute an amendment of the Venetie IRA constitution or corporation charter but we are fearful it has been construed as such.

The situation in Alaska relating to the Indian Reorganization Act is substantially different than in the lower 48. In the lower 48, the existence of a reservation was a prerequisite to organization under the IRA. In Alaska, communities could organize without first having a reservation and many did so. The result seems to have been substantial confusion.

Our preliminary opinion that the members of the traditional community of Arctic Village are not necessarily the same as the members of the Venetie IRA aggravates the problem of shareholder approval under Alaska state corporate law. However, in light of the agreement and con-

veyance executed by the Natives on September 4, the same date the oil and gas lease was executed, it may not be necessary to address this more complex issue. Pursuant to this agreement and conveyance the ANCSA corporations and the Venetie IRA entity agree that Rougeot Oil and Gas Corporation can enforce any of the lease and conveyance agreements against the two ANCSA corporations even if the lease or conveyance is determined invalid or unenforceable against the Venetie IRA by any person in any administrative procedure for any reason. Thus, we believe that the most important question involved is the relatively simple one of whether there is any requirement for Secretarial approval of an oil and gas lease executed or adopted by the ANCSA corporations. Our answer is that the Secretary clearly does not need to approve any such actions by the ANCSA corporations.

The land transferred to the Venetie/Arctic Village ANCSA entities was the land comprising the Venetie Reservation which was set aside for the inhabitants of the Native Villages of Venetie, Arctic Village, Christian Village, and Robert's Fish Camps (Kachick) and vicinity by a proclamation of the Assistant Secretary on May 20, 1943, pursuant to the Act of May 1, 1936 (49 Stat. 1253). Section 19(a) of ANCSA provides in part:

Notwithstanding any other provision of law, and except where inconsistent with the provisions of this chapter, the various reserves set aside by legislation or by Executive Order or Secretarial Order for Native use or for administration of Native affairs . . . are hereby revoked. See 43 U.S.C. § 1618(a).

The Government's conveyance of former Venetie Reserve lands to the ANCSA entities in fee was a conveyance to Village Corporations, not to tribes. The Settlement Act section under which the patent was issued provides that:

Notwithstanding any other provision of law or of this chapter, any Village Corporation or Corporations may elect . . . to acquire title to the surface

and subsurface estates in any reserve set aside for the use or benefit of its stockholders or members prior to December 18, 1971 . . . In such event, the Secretary shall convey the land to the Village Corporation or Corporations . . . 43 U.S.C. § 1618(b).

Not only is this statutory language revoking the reservation status of the land clear, but also ANCSA's declaration of policy and legislative history demonstrates that Congress intended to remove Alaska Native lands from a tribal or racially defined status and therefore free of any restraints on alienation. Congress' declaration of policy in the Settlement Act provides that:

The settlement should be accomplished . . . without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges . . . 43 U.S.C. § 1601(b).

The House report on the Settlement Act declared that:

[t]he bill does not establish any trust relationship between the Federal Government and the Natives. The regional corporations and the village corporations will be organized under State law, and will not be subject to Federal supervision except to the limited extent specifically provided in the bill. All conveyances of land will be in fee—not in trust. H.R. Rep. No. 92-523, 92d Cong., 1st Sess. 9 (1971).

The Senate Report is also instructive:

The assets granted to Alaska Natives under the terms of this settlement will be managed and *disposed of by them* either as individuals or through statewide, regional and local corporations *controlled by them*.

* * * *

The settlement of Alaska Native land claims is to be final and complete and the present legislation intends to avoid prolonged legal or property distinctions or implications of wardship based upon race. Accordingly, the assets granted in settlement of the claims will be, or will rapidly become, ordinary and unrestricted forms of property. Organizations established to implement the settlement will have a strictly limited life or will become ordinary public and private corporations operating without any special privileges or restrictions. [Emphasis added.] S. Rep. No. 92-405, 92d Cong., 1st Sess. 80 (1971).

Although there is very little case law on the issue, what there is agrees with the committee's interpretation of the Settlement Act. *See Cape Fox Corp. v. United States*, 456 F. Supp. 784 (D. Ak. 1978). Furthermore, other sections of the Settlement Act reflect Congress' consent to unrestricted Native alienation of land and natural resources patented pursuant to the Settlement Act. For example, in the definition of "Village Corporation" in section 3(j) of the Settlement Act, 43 U.S.C. § 1602(j), the consent to alienation is clear:

"Village Corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit Corporation *to hold, invest, manage and/or distribute lands*, property, funds, and other rights and assets for and on behalf of the Native Village in accordance with the terms of this chapter. [Emphasis added.]

The laws of Alaska obviously allow corporations to alienate property freely. Similarly, Section 14(g) of the Settlement Act provides that:

[u]pon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the State or the United States as lessor, contractor, permitter, or grantor, in any such leases, contracts,

permit, rights-of-way, or easements covering the estate patented

This section substitutes the Village Corporation for the United States or the State, as the case may be, as grantor or lessor of pre-existing interests in the patented land. S. Rep. No. 92-405, 92d Cong., 1st Sess. 145 (1971). It follows that subsequent conveyances of interests in the patented land would be executed by the Native Corporations, not by the Federal or State Governments. Again, the conclusion is that Congress has consented in the Settlement Act to unrestricted Native alienation of ANCSA patented lands.

For all of the foregoing reasons, I am convinced that Secretarial approval is not required for any actions taken by the ANCSA corporate entities. Our preliminary view is that Secretarial approval is also not required of actions taken by Venetie tribal government under these unique circumstances. The issues surrounding the actions by the Venetie tribal government are, however, considerably more complex. We will provide you with our views on those issues just as soon as we have finalized them. In the meantime, if you have any other questions, please don't hesitate to call on us.

Sincerely yours,

/s/ Scott Keep
SCOTT KEEP
Acting Associate Solicitor
Division of Indian Affairs

cc: Regional Solicitor, Anchorage
Attn: David Case
Mr. James Savok, Superintendent
Frederic Dorwart, Esq.
Clifford Groh, Esq.